

1 A bill to be entitled

2 An act relating to controlled substances; amending s.
3 893.033, F.S.; revising the chemicals defined as "listed
4 precursor chemicals" to include benzaldehyde, hydriodic
5 acid, and nitroethane, and to remove anhydrous ammonia and
6 benzyl chloride; revising the chemicals defined as "listed
7 essential chemicals" to include anhydrous ammonia, benzyl
8 chloride, hydrochloric gas, and iodine; amending s.
9 893.13, F.S.; prohibiting a person from manufacturing
10 methamphetamine or phencyclidine or from possessing listed
11 chemicals with the intent to manufacture methamphetamine
12 or phencyclidine; providing criminal penalties; providing
13 for minimum terms of imprisonment in circumstances where a
14 person commits or attempts to commit such crime in a
15 structure or conveyance where a child is present and in
16 circumstances where a child suffers great bodily harm;
17 providing criminal penalties in circumstances where a
18 person fails to store anhydrous ammonia as required;
19 providing criminal penalties in circumstances involving a
20 violation of ch. 893, F.S., which results in serious
21 injury to a state, local, or federal law enforcement
22 officer; increasing the criminal penalties if such
23 violation results in death or great bodily harm to such
24 officer; prohibiting a person from selling, manufacturing,
25 delivering, or attempting to sell, manufacture, or deliver
26 a controlled substance in, on, or within 1,000 feet of an
27 assisted living facility; providing criminal penalties for
28 such offense; specifying minimum terms of imprisonment for

29 | such offense; amending s. 893.135, F.S.; including
30 | offenses involving pseudoephedrine within the offense of
31 | trafficking in amphetamine; providing criminal penalties;
32 | providing that it is a capital offense to manufacture or
33 | import pseudoephedrine knowing that the probable result
34 | will be death; amending s. 893.149, F.S., relating to the
35 | prohibition against possessing listed chemicals; providing
36 | an exception to such prohibition for a person authorized
37 | to clean up or dispose of hazardous waste or toxic
38 | substances pursuant to ch. 893, F.S.; providing that
39 | damages arising out of the unlawful possession of, storage
40 | of, or tampering with a listed chemical is the sole
41 | responsibility of the person unlawfully possessing,
42 | storing, or tampering with the chemical; providing that
43 | the lawful owner, installer, maintainer, designer,
44 | manufacturer, possessor, or seller is immune from
45 | liability in the absence of negligent misconduct or
46 | failure to abide by laws governing possession or storage;
47 | reenacting s. 893.02(12), F.S., relating to the definition
48 | of the term "listed chemical," for the purpose of
49 | incorporating the amendment to s. 893.033, F.S., in a
50 | reference thereto; reenacting ss. 435.07(2), 921.187(1),
51 | 938.25, and 948.034(1) and (2), F.S., relating to
52 | exemptions from disqualification for certain employment,
53 | disposition, and sentencing, the assessment of fees for
54 | purposes of funding the Operating Trust Fund of the
55 | Department of Law Enforcement, and the terms and
56 | conditions of probation, respectively, for the purpose of

57 | incorporating the amendment to s. 893.13, F.S., in
58 | references thereto; reenacting ss. 311.12(3)(c),
59 | 414.095(1), 775.087(2)(a) and (3)(a), 782.04(1)(a),
60 | (3)(a), and (4)(a), 893.13(8)(d), 907.041(4)(c),
61 | 921.0022(3)(g) and (i), 921.0024(1), 921.142(2), 943.0585,
62 | and 943.059, F.S., relating to seaport security standards,
63 | eligibility for temporary cash assistance, mandatory
64 | sentencing in circumstances involving the possession of
65 | use of a weapon, specified offenses that may be charged as
66 | murder if death results, prohibited acts by prescribing
67 | practitioners, circumstances in which the court may order
68 | pretrial detention, the offense severity ranking chart of
69 | the Criminal Punishment Code, worksheet computations and
70 | scoresheets under the Criminal Punishment Code, sentencing
71 | in capital drug trafficking cases, limitations on
72 | circumstances in which a criminal history record may be
73 | expunged, and limitations on circumstances in which a
74 | criminal history record may be sealed, respectively, for
75 | the purpose of incorporating the amendment to s. 895.135,
76 | F.S., in references thereto; reenacting ss. 397.451(4)(b)
77 | and (6), 772.12(2)(a), 893.1351(1), and 903.133, F.S.,
78 | relating to background checks of service provider
79 | personnel, the Drug Dealer Liability Act, the prohibition
80 | against leasing or renting for the purpose of trafficking
81 | in a controlled substance, and the limitation of admission
82 | to bail, respectively, for the purpose of incorporating
83 | the amendments to ss. 893.13 and 893.135, F.S., in

84 | references thereto; providing applicability; providing an
 85 | effective date.

86 |
 87 | Be It Enacted by the Legislature of the State of Florida:
 88 |

89 | Section 1. Section 893.033, Florida Statutes, is amended
 90 | to read:

91 | 893.033 Listed chemicals.--The chemicals listed in this
 92 | section are included by whatever official, common, usual,
 93 | chemical, or trade name designated.

94 | (1) PRECURSOR CHEMICALS.--The term "listed precursor
 95 | chemical" means a chemical that may be used in manufacturing a
 96 | controlled substance in violation of this chapter and is
 97 | critical to the creation of the controlled substance, and such
 98 | term includes any salt, optical isomer, or salt of an optical
 99 | isomer, whenever the existence of such salt, optical isomer, or
 100 | salt of optical isomer is possible within the specific chemical
 101 | designation. The following are "listed precursor chemicals":

102 | ~~(a) Anhydrous ammonia.~~

103 | (a)~~(b)~~ Anthranilic acid.

104 | (b) Benzaldehyde.

105 | ~~(c) Benzyl chloride.~~

106 | (c)~~(d)~~ Benzyl cyanide.

107 | (d)~~(e)~~ Chloroephedrine.

108 | (e)~~(f)~~ Chloropseudoephedrine.

109 | (f)~~(g)~~ Ephedrine.

110 | (g)~~(h)~~ Ergonovine.

111 | (h)~~(i)~~ Ergotamine.

- 112 | ~~(i)-(j)~~ Ethylamine.
- 113 | (j) Hydriodic acid.
- 114 | (k) Isosafrole.
- 115 | (l) Methylamine.
- 116 | (m) 3, 4-Methylenedioxyphenyl-2-propanone.
- 117 | (n) N-acetylanthranilic acid.
- 118 | (o) N-ethylephedrine.
- 119 | (p) N-ethylpseudoephedrine.
- 120 | (q) N-methylephedrine.
- 121 | (r) N-methylpseudoephedrine.
- 122 | (s) Nitroethane.
- 123 | ~~(t)-(s)~~ Norpseudoephedrine.
- 124 | (u)~~(t)~~ Phenylacetic acid.
- 125 | (v)~~(u)~~ Phenylpropanolamine.
- 126 | (w)~~(v)~~ Piperidine.
- 127 | (x)~~(w)~~ Piperonal.
- 128 | (y)~~(x)~~ Propionic anhydride.
- 129 | (z)~~(y)~~ Pseudoephedrine.
- 130 | (aa)~~(z)~~ Safrole.

131 | (2) ESSENTIAL CHEMICALS.--The term "listed essential
 132 | chemical" means a chemical that may be used as a solvent,
 133 | reagent, or catalyst in manufacturing a controlled substance in
 134 | violation of this chapter. The following are "listed essential
 135 | chemicals":

- 136 | (a) Acetic anhydride.
- 137 | (b) Acetone.
- 138 | (c) Anhydrous ammonia.
- 139 | (d) Benzyl chloride.

- 140 ~~(e)(e)~~ 2-Butanone.
- 141 ~~(f)(d)~~ Ethyl ether.
- 142 (g) Hydrochloric gas.
- 143 ~~(h)(e)~~ Hydriodic acid.
- 144 (i) Iodine.
- 145 ~~(j)(f)~~ Potassium permanganate.
- 146 ~~(k)(g)~~ Toluene.

147 Section 2. Paragraphs (g) and (h) are added to subsection
 148 (1) of section 893.13, Florida Statutes, paragraphs (a) and (c)
 149 of subsection (7) of said section are amended, subsection (12)
 150 is added to said section, and paragraph (d) of subsection (8) of
 151 said section is reenacted for purpose of incorporating the
 152 amendment to section 893.135, Florida Statutes, in a reference
 153 thereto, to read:

154 893.13 Prohibited acts; penalties.--

155 (1)

156 (g) Except as authorized by this chapter, it is unlawful
 157 for any person to manufacture methamphetamine or phencyclidine,
 158 or possess any listed chemical as defined in s. 893.033 in
 159 violation of s. 893.149 and with intent to manufacture
 160 methamphetamine or phencyclidine. If any person violates this
 161 paragraph and:

162 1. The commission or attempted commission of the crime
 163 occurs in a structure or conveyance where any child under 16
 164 years of age is present, the person commits a felony of the
 165 first degree, punishable as provided in s. 775.082, s. 775.083,
 166 or s. 775.084. In addition, the defendant must be sentenced to a
 167 minimum term of imprisonment of 5 calendar years.

168 2. The commission of the crime causes any child under 16
169 years of age to suffer great bodily harm, the person commits a
170 felony of the first degree, punishable as provided in s.
171 775.082, s. 775.083, or s. 775.084. In addition, the defendant
172 must be sentenced to a minimum term of imprisonment of 10
173 calendar years.

174 (h) Except as authorized by this chapter, it is unlawful
175 for any person to sell, manufacture, or deliver, or possess with
176 intent to sell, manufacture, or deliver, a controlled substance
177 in, on, or within 1,000 feet of the real property comprising an
178 assisted living facility, as that term is used in chapter 400.
179 Any person who violates this paragraph with respect to:

180 1. A controlled substance named or described in s.
181 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
182 commits a felony of the first degree, punishable as provided in
183 s. 775.082, s. 775.083, or s. 775.084.

184 2. A controlled substance named or described in s.
185 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
186 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
187 the second degree, punishable as provided in s. 775.082, s.
188 775.083, or s. 775.084.

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

190 1. To distribute or dispense a controlled substance in
191 violation of this chapter.

192 2. To refuse or fail to make, keep, or furnish any record,
193 notification, order form, statement, invoice, or information
194 required under this chapter.

195 | 3. To refuse an entry into any premises for any inspection
196 | or to refuse to allow any inspection authorized by this chapter.

197 | 4. To distribute a controlled substance named or described
198 | in s. 893.03(1) or (2) except pursuant to an order form as
199 | required by s. 893.06.

200 | 5. To keep or maintain any store, shop, warehouse,
201 | dwelling, building, vehicle, boat, aircraft, or other structure
202 | or place which is resorted to by persons using controlled
203 | substances in violation of this chapter for the purpose of using
204 | these substances, or which is used for keeping or selling them
205 | in violation of this chapter.

206 | 6. To use to his or her own personal advantage, or to
207 | reveal, any information obtained in enforcement of this chapter
208 | except in a prosecution or administrative hearing for a
209 | violation of this chapter.

210 | 7. To possess a prescription form which has not been
211 | completed and signed by the practitioner whose name appears
212 | printed thereon, unless the person is that practitioner, is an
213 | agent or employee of that practitioner, is a pharmacist, or is a
214 | supplier of prescription forms who is authorized by that
215 | practitioner to possess those forms.

216 | 8. To withhold information from a practitioner from whom
217 | the person seeks to obtain a controlled substance or a
218 | prescription for a controlled substance that the person making
219 | the request has received a controlled substance or a
220 | prescription for a controlled substance of like therapeutic use
221 | from another practitioner within the previous 30 days.

222 9. To acquire or obtain, or attempt to acquire or obtain,
 223 possession of a controlled substance by misrepresentation,
 224 fraud, forgery, deception, or subterfuge.

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

227 11. To furnish false or fraudulent material information
 228 in, or omit any material information from, any report or other
 229 document required to be kept or filed under this chapter or any
 230 record required to be kept by this chapter.

231 12. To store anhydrous ammonia in a container that is not
 232 approved by the United States Department of Transportation to
 233 hold anhydrous ammonia or is not constructed in accordance with
 234 sound engineering, agricultural, or commercial practices.

235 (c) Any person who violates the provisions of
 236 subparagraphs (a)8.-12. ~~(a)8.-11.~~ commits a felony of the third
 237 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 238 775.084.

239 (8)

240 (d) Notwithstanding paragraph (c), if a prescribing
 241 practitioner has violated paragraph (a) and received \$1,000 or
 242 more in payment for writing one or more prescriptions or, in the
 243 case of a prescription written for a controlled substance
 244 described in s. 893.135, has written one or more prescriptions
 245 for a quantity of a controlled substance which, individually or
 246 in the aggregate, meets the threshold for the offense of
 247 trafficking in a controlled substance under s. 893.15, the
 248 violation is reclassified as a felony of the second degree and
 249 ranked in level 4 of the Criminal Punishment Code.

250 (12) If a person violates any provision of this chapter
 251 and such violation results in a serious injury to a state,
 252 local, or federal law enforcement officer, the person commits a
 253 felony of the third degree, punishable as provided in s.
 254 775.082, s. 775.083, or s. 775.084. If the injury sustained
 255 results in death or great bodily harm, the person commits a
 256 felony of the second degree, punishable as provided in s.
 257 775.082, s. 775.083, or s. 775.084.

258 Section 3. Paragraph (f) of subsection (1) of section
 259 893.135, Florida Statutes, is amended to read:

260 893.135 Trafficking; mandatory sentences; suspension or
 261 reduction of sentences; conspiracy to engage in trafficking.--

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

264 (f)1. Any person who knowingly sells, purchases,
 265 manufactures, delivers, or brings into this state, or who is
 266 knowingly in actual or constructive possession of, 14 grams or
 267 more of amphetamine, as described in s. 893.03(2)(c)2., or
 268 methamphetamine, as described in s. 893.03(2)(c)4., or of any
 269 mixture containing amphetamine or methamphetamine, or
 270 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
 271 in conjunction with other chemicals and equipment utilized in
 272 the manufacture of amphetamine or methamphetamine, commits a
 273 felony of the first degree, which felony shall be known as
 274 "trafficking in amphetamine," punishable as provided in s.
 275 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

278 imprisonment of 3 years, and the defendant shall be ordered to
 279 pay a fine of \$50,000.

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

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

287 2. Any person who knowingly manufactures or brings into
 288 this state 400 grams or more of amphetamine, as described in s.
 289 893.03(2)(c)2., or methamphetamine, as described in s.
 290 893.03(2)(c)4., or of any mixture containing amphetamine or
 291 methamphetamine, or phenylacetone, phenylacetic acid,
 292 pseudoephedrine, or ephedrine in conjunction with other
 293 chemicals and equipment used in the manufacture of amphetamine
 294 or methamphetamine, and who knows that the probable result of
 295 such manufacture or importation would be the death of any person
 296 commits capital manufacture or importation of amphetamine, a
 297 capital felony punishable as provided in ss. 775.082 and
 298 921.142. Any person sentenced for a capital felony under this
 299 paragraph shall also be sentenced to pay the maximum fine
 300 provided under subparagraph 1.

301 Section 4. Section 893.149, Florida Statutes, is amended
 302 to read:

303 893.149 Unlawful possession of listed chemical.--

304 (1) It is unlawful for any person to knowingly or
 305 intentionally:

306 (a) Possess a listed chemical with the intent to
 307 unlawfully manufacture a controlled substance;

308 (b) Possess or distribute a listed chemical knowing, or
 309 having reasonable cause to believe, that the listed chemical
 310 will be used to unlawfully manufacture a controlled substance.

311 (2) Any person who violates this section commits ~~is guilty~~
 312 ~~of~~ a felony of the second degree, punishable as provided in s.
 313 775.082, s. 775.083, or s. 775.084.

314 (3) This section does not apply to a public employee or
 315 private contractor authorized to clean up or dispose of
 316 hazardous waste or toxic substances pursuant to the provisions
 317 of this chapter.

318 (4) Any damages arising out of the unlawful possession of,
 319 storage of, or tampering with a listed chemical, as defined in
 320 s. 893.033, shall be the sole responsibility of the person or
 321 persons unlawfully possessing, storing, or tampering with the
 322 listed chemical. In no case shall liability for damages arising
 323 out of the unlawful possession of, storage of, or tampering with
 324 a listed chemical extend to the lawful owner, installer,
 325 maintainer, designer, manufacturer, possessor, or seller of the
 326 listed chemical, unless such damages arise out of the acts or
 327 omissions of the owner, installer, maintainer, designer,
 328 manufacturer, possessor, or seller which constitute negligent
 329 misconduct or failure to abide by the laws regarding the
 330 possession or storage of a listed chemical.

331 Section 5. For the purpose of incorporating the amendment
 332 to section 893.135, Florida Statutes, in a reference thereto,

333 paragraph (c) of subsection (3) of section 311.12, Florida
334 Statutes, is reenacted to read:

335 311.12 Seaport security standards.--

336 (3)

337 (c) In addition to other requirements for employment or
338 access established by each seaport pursuant to its seaport
339 security plan, each seaport security plan shall provide that:

340 1. Any person who has within the past 7 years been
341 convicted, regardless of whether adjudication was withheld, for
342 a forcible felony as defined in s. 776.08; an act of terrorism
343 as defined in s. 775.30; planting of a hoax bomb as provided in
344 s. 790.165; any violation involving the manufacture, possession,
345 sale, delivery, display, use, or attempted or threatened use of
346 a weapon of mass destruction or hoax weapon of mass destruction
347 as provided in s. 790.166; dealing in stolen property; any
348 violation of s. 893.135; any violation involving the sale,
349 manufacturing, delivery, or possession with intent to sell,
350 manufacture, or deliver a controlled substance; burglary;
351 robbery; any felony violation of s. 812.014; any violation of s.
352 790.07; any crime an element of which includes use or possession
353 of a firearm; any conviction for any similar offenses under the
354 laws of another jurisdiction; or conviction for conspiracy to
355 commit any of the listed offenses shall not be qualified for
356 initial employment within or regular access to a seaport or
357 restricted access area; and

358 2. Any person who has at any time been convicted for any
359 of the listed offenses shall not be qualified for initial
360 employment within or authorized regular access to a seaport or

361 restricted access area unless, after release from incarceration
 362 and any supervision imposed as a sentence, the person remained
 363 free from a subsequent conviction, regardless of whether
 364 adjudication was withheld, for any of the listed offenses for a
 365 period of at least 7 years prior to the employment or access
 366 date under consideration.

367 Section 6. For the purpose of incorporating the amendments
 368 to sections 893.13 and 893.135, Florida Statutes, in references
 369 thereto, paragraph (b) of subsection (4) and subsection (6) of
 370 section 397.451, Florida Statutes, are reenacted to read:

371 397.451 Background checks of service provider personnel.--

372 (4) EXEMPTIONS FROM DISQUALIFICATION.--

373 (b) Since rehabilitated substance abuse impaired persons
 374 are effective in the successful treatment and rehabilitation of
 375 substance abuse impaired adolescents, for service providers
 376 which treat adolescents 13 years of age and older, service
 377 provider personnel whose background checks indicate crimes under
 378 s. 817.563, s. 893.13, or s. 893.147 may be exempted from
 379 disqualification from employment pursuant to this paragraph.

380 (6) DISQUALIFICATION FROM RECEIVING STATE FUNDS.--State
 381 funds may not be disseminated to any service provider owned or
 382 operated by an owner, director, or chief financial officer who
 383 has been convicted of, has entered a plea of guilty or nolo
 384 contendere to, or has had adjudication withheld for, a violation
 385 of s. 893.135 pertaining to trafficking in controlled
 386 substances, or a violation of the law of another state, the
 387 District of Columbia, the United States or any possession or
 388 territory thereof, or any foreign jurisdiction which is

389 | substantially similar in elements and penalties to a trafficking
 390 | offense in this state, unless the owner's or director's civil
 391 | rights have been restored.

392 | Section 7. For the purpose of incorporating the amendment
 393 | to section 893.135, Florida Statutes, in a reference thereto,
 394 | subsection (1) of section 414.095, Florida Statutes, is
 395 | reenacted to read:

396 | 414.095 Determining eligibility for temporary cash
 397 | assistance.--

398 | (1) ELIGIBILITY.--An applicant must meet eligibility
 399 | requirements of this section before receiving services or
 400 | temporary cash assistance under this chapter, except that an
 401 | applicant shall be required to register for work and engage in
 402 | work activities in accordance with s. 445.024, as designated by
 403 | the regional workforce board, and may receive support services
 404 | or child care assistance in conjunction with such requirement.
 405 | The department shall make a determination of eligibility based
 406 | on the criteria listed in this chapter. The department shall
 407 | monitor continued eligibility for temporary cash assistance
 408 | through periodic reviews consistent with the food stamp
 409 | eligibility process. Benefits shall not be denied to an
 410 | individual solely based on a felony drug conviction, unless the
 411 | conviction is for trafficking pursuant to s. 893.135. To be
 412 | eligible under this section, an individual convicted of a drug
 413 | felony must be satisfactorily meeting the requirements of the
 414 | temporary cash assistance program, including all substance abuse
 415 | treatment requirements. Within the limits specified in this
 416 | chapter, the state opts out of the provision of Pub. L. No. 104-

417 193, s. 115, that eliminates eligibility for temporary cash
418 assistance and food stamps for any individual convicted of a
419 controlled substance felony.

420 Section 8. For the purpose of incorporating the amendment
421 to section 893.13, Florida Statutes, in a reference thereto,
422 subsection (2) of section 435.07, Florida Statutes, is reenacted
423 to read:

424 435.07 Exemptions from disqualification.--Unless otherwise
425 provided by law, the provisions of this section shall apply to
426 exemptions from disqualification.

427 (2) Persons employed by treatment providers who treat
428 adolescents 13 years of age and older who are disqualified from
429 employment solely because of crimes under s. 817.563, s. 893.13,
430 or s. 893.147 may be exempted from disqualification from
431 employment pursuant to this section without the 3-year waiting
432 period.

433 Section 9. For the purpose of incorporating the amendments
434 to sections 893.13 and 893.135, Florida Statutes, in references
435 thereto, paragraph (a) of subsection (2) of section 772.12,
436 Florida Statutes, is reenacted to read:

437 772.12 Drug Dealer Liability Act.--

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

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

- 446 1. A violation of s. 893.13, except for a violation of s.
- 447 893.13(2)(a) or (b), (3), (5), (6)(a), (b), or (c), (7); or
- 448 2. A violation of s. 893.135; and

449 Section 10. For the purpose of incorporating the amendment
 450 to section 893.135, Florida Statutes, in references thereto,
 451 paragraph (a) of subsection (2) and paragraph (a) of subsection
 452 (3) of section 775.087, Florida Statutes, are reenacted to read:

453 775.087 Possession or use of weapon; aggravated battery;
 454 felony reclassification; minimum sentence.--

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

- 458 a. Murder;
- 459 b. Sexual battery;
- 460 c. Robbery;
- 461 d. Burglary;
- 462 e. Arson;
- 463 f. Aggravated assault;
- 464 g. Aggravated battery;
- 465 h. Kidnapping;
- 466 i. Escape;
- 467 j. Aircraft piracy;
- 468 k. Aggravated child abuse;
- 469 l. Aggravated abuse of an elderly person or disabled
- 470 adult;

471 m. Unlawful throwing, placing, or discharging of a
 472 destructive device or bomb;
 473 n. Carjacking;
 474 o. Home-invasion robbery;
 475 p. Aggravated stalking;
 476 q. Trafficking in cannabis, trafficking in cocaine,
 477 capital importation of cocaine, trafficking in illegal drugs,
 478 capital importation of illegal drugs, trafficking in
 479 phencyclidine, capital importation of phencyclidine, trafficking
 480 in methaqualone, capital importation of methaqualone,
 481 trafficking in amphetamine, capital importation of amphetamine,
 482 trafficking in flunitrazepam, trafficking in gamma-
 483 hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,
 484 trafficking in Phenethylamines, or other violation of s.
 485 893.135(1); or

486 r. Possession of a firearm by a felon

487
 488 and during the commission of the offense, such person actually
 489 possessed a "firearm" or "destructive device" as those terms are
 490 defined in s. 790.001, shall be sentenced to a minimum term of
 491 imprisonment of 10 years, except that a person who is convicted
 492 for aggravated assault, possession of a firearm by a felon, or
 493 burglary of a conveyance shall be sentenced to a minimum term of
 494 imprisonment of 3 years if such person possessed a "firearm" or
 495 "destructive device" during the commission of the offense.

496 2. Any person who is convicted of a felony or an attempt
 497 to commit a felony listed in sub-subparagraphs (a)1.a.-q.,
 498 regardless of whether the use of a weapon is an element of the

499 felony, and during the course of the commission of the felony
 500 such person discharged a "firearm" or "destructive device" as
 501 defined in s. 790.001 shall be sentenced to a minimum term of
 502 imprisonment of 20 years.

503 3. Any person who is convicted of a felony or an attempt
 504 to commit a felony listed in sub-subparagraphs (a)1.a.-q.,
 505 regardless of whether the use of a weapon is an element of the
 506 felony, and during the course of the commission of the felony
 507 such person discharged a "firearm" or "destructive device" as
 508 defined in s. 790.001 and, as the result of the discharge, death
 509 or great bodily harm was inflicted upon any person, the
 510 convicted person shall be sentenced to a minimum term of
 511 imprisonment of not less than 25 years and not more than a term
 512 of imprisonment of life in prison.

513 (3)(a)1. Any person who is convicted of a felony or an
 514 attempt to commit a felony, regardless of whether the use of a
 515 firearm is an element of the felony, and the conviction was for:

- 516 a. Murder;
- 517 b. Sexual battery;
- 518 c. Robbery;
- 519 d. Burglary;
- 520 e. Arson;
- 521 f. Aggravated assault;
- 522 g. Aggravated battery;
- 523 h. Kidnapping;
- 524 i. Escape;
- 525 j. Sale, manufacture, delivery, or intent to sell,
 526 manufacture, or deliver any controlled substance;

- 527 | k. Aircraft piracy;
- 528 | l. Aggravated child abuse;
- 529 | m. Aggravated abuse of an elderly person or disabled
- 530 | adult;
- 531 | n. Unlawful throwing, placing, or discharging of a
- 532 | destructive device or bomb;
- 533 | o. Carjacking;
- 534 | p. Home-invasion robbery;
- 535 | q. Aggravated stalking; or
- 536 | r. Trafficking in cannabis, trafficking in cocaine,
- 537 | capital importation of cocaine, trafficking in illegal drugs,
- 538 | capital importation of illegal drugs, trafficking in
- 539 | phencyclidine, capital importation of phencyclidine, trafficking
- 540 | in methaqualone, capital importation of methaqualone,
- 541 | trafficking in amphetamine, capital importation of amphetamine,
- 542 | trafficking in flunitrazepam, trafficking in gamma-
- 543 | hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,
- 544 | trafficking in Phenethylamines, or other violation of s.
- 545 | 893.135(1);

546 |

547 | and during the commission of the offense, such person possessed

548 | a semiautomatic firearm and its high-capacity detachable box

549 | magazine or a machine gun as defined in s. 790.001, shall be

550 | sentenced to a minimum term of imprisonment of 15 years.

551 | 2. Any person who is convicted of a felony or an attempt

552 | to commit a felony listed in subparagraph (a)1., regardless of

553 | whether the use of a weapon is an element of the felony, and

554 | during the course of the commission of the felony such person

555 discharged a semiautomatic firearm and its high-capacity box
 556 magazine or a "machine gun" as defined in s. 790.001 shall be
 557 sentenced to a minimum term of imprisonment of 20 years.

558 3. Any person who is convicted of a felony or an attempt
 559 to commit a felony listed in subparagraph (a)1., regardless of
 560 whether the use of a weapon is an element of the felony, and
 561 during the course of the commission of the felony such person
 562 discharged a semiautomatic firearm and its high-capacity box
 563 magazine or a "machine gun" as defined in s. 790.001 and, as the
 564 result of the discharge, death or great bodily harm was
 565 inflicted upon any person, the convicted person shall be
 566 sentenced to a minimum term of imprisonment of not less than 25
 567 years and not more than a term of imprisonment of life in
 568 prison.

569 Section 11. For the purpose of incorporating the amendment
 570 to section 893.135, Florida Statutes, in references thereto,
 571 paragraph (a) of subsection (1), paragraph (a) of subsection
 572 (3), and paragraph (a) of subsection (4) of section 782.04,
 573 Florida Statutes, are reenacted to read:

574 782.04 Murder.--

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

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

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

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

581 b. Arson,

582 c. Sexual battery,

- 583 d. Robbery,
- 584 e. Burglary,
- 585 f. Kidnapping,
- 586 g. Escape,
- 587 h. Aggravated child abuse,
- 588 i. Aggravated abuse of an elderly person or disabled
- 589 adult,
- 590 j. Aircraft piracy,
- 591 k. Unlawful throwing, placing, or discharging of a
- 592 destructive device or bomb,
- 593 l. Carjacking,
- 594 m. Home-invasion robbery,
- 595 n. Aggravated stalking,
- 596 o. Murder of another human being,
- 597 p. Resisting an officer with violence to his or her
- 598 person,
- 599 q. Felony that is an act of terrorism or is in furtherance
- 600 of an act of terrorism; or
- 601 3. Which resulted from the unlawful distribution of any
- 602 substance controlled under s. 893.03(1), cocaine as described in
- 603 s. 893.03(2)(a)4., or opium or any synthetic or natural salt,
- 604 compound, derivative, or preparation of opium by a person 18
- 605 years of age or older, when such drug is proven to be the
- 606 proximate cause of the death of the user,
- 607
- 608 is murder in the first degree and constitutes a capital felony,
- 609 punishable as provided in s. 775.082.

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

612 (a) Trafficking offense prohibited by s. 893.135(1),
 613
 614 by a person other than the person engaged in the perpetration of
 615 or in the attempt to perpetrate such felony, the person
 616 perpetrating or attempting to perpetrate such felony is guilty
 617 of murder in the second degree, which constitutes a felony of
 618 the first degree, punishable by imprisonment for a term of years
 619 not exceeding life or as provided in s. 775.082, s. 775.083, or
 620 s. 775.084.

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

625 (a) Trafficking offense prohibited by s. 893.135(1),
 626
 627 is murder in the third degree and constitutes a felony of the
 628 second degree, punishable as provided in s. 775.082, s. 775.083,
 629 or s. 775.084.

630 Section 12. For the purpose of incorporating the amendment
 631 to section 893.033, Florida Statutes, in a reference thereto,
 632 subsection (12) of section 893.02, Florida Statutes, is
 633 reenacted to read:

634 893.02 Definitions.--The following words and phrases as
 635 used in this chapter shall have the following meanings, unless
 636 the context otherwise requires:

637 (12) "Listed chemical" means any precursor chemical or
638 essential chemical named or described in s. 893.033.

639 Section 13. For the purpose of incorporating the
640 amendments to sections 893.13 and 893.135, Florida Statutes, in
641 references thereto, subsection (1) of section 893.1351, Florida
642 Statutes, is reenacted to read:

643 893.1351 Lease or rent for the purpose of trafficking in a
644 controlled substance.--

645 (1) A person may not lease or rent any place, structure,
646 or part thereof, trailer, or other conveyance, with the
647 knowledge that such place, structure, trailer, or conveyance
648 will be used for the purpose of trafficking in a controlled
649 substance, as provided in s. 893.135, or the sale of a
650 controlled substance, as provided in s. 893.13.

651 Section 14. For the purpose of incorporating the
652 amendments to sections 893.13 and 893.135, Florida Statutes, in
653 references thereto, section 903.133, Florida Statutes, is
654 reenacted to read:

655 903.133 Bail on appeal; prohibited for certain felony
656 convictions.--Notwithstanding the provisions of s. 903.132, no
657 person adjudged guilty of a felony of the first degree for a
658 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.
659 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a
660 violation of s. 794.011(2) or (3), shall be admitted to bail
661 pending review either by posttrial motion or appeal.

662 Section 15. For the purpose of incorporating the amendment
663 to section 893.135, Florida Statutes, in a reference thereto,

664 paragraph (c) of subsection (4) of section 907.041, Florida
665 Statutes, is reenacted to read:

666 907.041 Pretrial detention and release.--

667 (4) PRETRIAL DETENTION.--

668 (c) The court may order pretrial detention if it finds a
669 substantial probability, based on a defendant's past and present
670 patterns of behavior, the criteria in s. 903.046, and any other
671 relevant facts, that any of the following circumstances exists:

672 1. The defendant has previously violated conditions of
673 release and that no further conditions of release are reasonably
674 likely to assure the defendant's appearance at subsequent
675 proceedings;

676 2. The defendant, with the intent to obstruct the judicial
677 process, has threatened, intimidated, or injured any victim,
678 potential witness, juror, or judicial officer, or has attempted
679 or conspired to do so, and that no condition of release will
680 reasonably prevent the obstruction of the judicial process;

681 3. The defendant is charged with trafficking in controlled
682 substances as defined by s. 893.135, that there is a substantial
683 probability that the defendant has committed the offense, and
684 that no conditions of release will reasonably assure the
685 defendant's appearance at subsequent criminal proceedings; or

686 4. The defendant is charged with DUI manslaughter, as
687 defined by s. 316.193, and that there is a substantial
688 probability that the defendant committed the crime and that the
689 defendant poses a threat of harm to the community; conditions
690 that would support a finding by the court pursuant to this

691 subparagraph that the defendant poses a threat of harm to the
 692 community include, but are not limited to, any of the following:

693 a. The defendant has previously been convicted of any
 694 crime under s. 316.193, or of any crime in any other state or
 695 territory of the United States that is substantially similar to
 696 any crime under s. 316.193;

697 b. The defendant was driving with a suspended driver's
 698 license when the charged crime was committed; or

699 c. The defendant has previously been found guilty of, or
 700 has had adjudication of guilt withheld for, driving while the
 701 defendant's driver's license was suspended or revoked in
 702 violation of s. 322.34;

703 5. The defendant poses the threat of harm to the
 704 community. The court may so conclude, if it finds that the
 705 defendant is presently charged with a dangerous crime, that
 706 there is a substantial probability that the defendant committed
 707 such crime, that the factual circumstances of the crime indicate
 708 a disregard for the safety of the community, and that there are
 709 no conditions of release reasonably sufficient to protect the
 710 community from the risk of physical harm to persons.

711 6. The defendant was on probation, parole, or other
 712 release pending completion of sentence or on pretrial release
 713 for a dangerous crime at the time the current offense was
 714 committed; or

715 7. The defendant has violated one or more conditions of
 716 pretrial release or bond for the offense currently before the
 717 court and the violation, in the discretion of the court,
 718 supports a finding that no conditions of release can reasonably

719 | protect the community from risk of physical harm to persons or
 720 | assure the presence of the accused at trial.

721 | Section 16. For the purpose of incorporating the amendment
 722 | to section 893.135, Florida Statutes, in references thereto,
 723 | paragraphs (g) and (i) of subsection (3) of section 921.0022,
 724 | Florida Statutes, are reenacted to read:

725 | 921.0022 Criminal Punishment Code; offense severity
 726 | ranking chart.--

727 | (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.027(1)(b)	2nd	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920(2)	3rd	Medicaid provider fraud.

734 |

735	456.065(2)	3rd	Practicing a health care profession without a license.
736	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
737	458.327(1)	3rd	Practicing medicine without a license.
738	459.013(1)	3rd	Practicing osteopathic medicine without a license.
739	460.411(1)	3rd	Practicing chiropractic medicine without a license.
740	461.012(1)	3rd	Practicing podiatric medicine without a license.
741	462.17	3rd	Practicing naturopathy without a license.
742	463.015(1)	3rd	Practicing optometry without a license.
743	464.016(1)	3rd	Practicing nursing without a license.
744	465.015(2)	3rd	Practicing pharmacy without a license.
745	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.

746	467.201	3rd	Practicing midwifery without a license.
747	468.366	3rd	Delivering respiratory care services without a license.
748	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
749	483.901(9)	3rd	Practicing medical physics without a license.
750	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
751	484.053	3rd	Dispensing hearing aids without a license.
752	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
753	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
	560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or

payment instruments exceeding \$300 but less than \$20,000.

754 655.50(10)(b)1. 3rd Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

755 782.051(3) 2nd Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

756 782.07(1) 2nd Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

757 782.071 2nd Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).

758 782.072 2nd Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).

759 784.045(1)(a)1. 2nd Aggravated battery; intentionally causing great bodily harm or disfigurement.

760 784.045(1)(a)2. 2nd Aggravated battery; using deadly

weapon.

761	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
762	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
763	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
764	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
765	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
766	784.081(1)	1st	Aggravated battery on specified official or employee.
767	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
768	784.083(1)	1st	Aggravated battery on code inspector.
769	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
770	790.16(1)	1st	Discharge of a machine gun under specified circumstances.

771	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
772	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
773	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
774	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
775	796.03	2nd	Procuring any person under 16 years for prostitution.
776	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
777	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
778	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
779			

780	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
781	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
782	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
783	812.014(2)(a)	1st	Property stolen, valued at \$100,000 or more; cargo stolen valued at \$50,000 or more; property stolen while causing other property damage; 1st degree grand theft.
784	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
785	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
786	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
787	812.131(2)(a)	2nd	Robbery by sudden snatching.
788	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
	817.234(8)(a)	2nd	Solicitation of motor vehicle accident

victims with intent to defraud.

789 817.234(9) 2nd Organizing, planning, or participating
in an intentional motor vehicle
collision.

790 817.234(11)(c) 1st Insurance fraud; property value
\$100,000 or more.

791 817.2341(2)(b)& 1st Making false entries of material fact
(3)(b) or false statements regarding property
values relating to the solvency of an
insuring entity which are a
significant cause of the insolvency of
that entity.

792 825.102(3)(b) 2nd Neglecting an elderly person or
disabled adult causing great bodily
harm, disability, or disfigurement.

793 825.103(2)(b) 2nd Exploiting an elderly person or
disabled adult and property is valued
at \$20,000 or more, but less than
\$100,000.

794 827.03(3)(b) 2nd Neglect of a child causing great
bodily harm, disability, or
disfigurement.

795 827.04(3) 3rd Impregnation of a child under 16 years

of age by person 21 years of age or older.

796 837.05(2) 3rd Giving false information about alleged capital felony to a law enforcement officer.

797 838.015 2nd Bribery.

798 838.016 2nd Unlawful compensation or reward for official behavior.

799 838.021(3)(a) 2nd Unlawful harm to a public servant.

800 838.22 2nd Bid tampering.

801 872.06 2nd Abuse of a dead human body.

802 893.13(1)(c)1. 1st Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

803 893.13(1)(e)1. 1st Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a),

(2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.

804 893.13(4)(a) 1st Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

805 893.135(1)(a)1. 1st Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

806 893.135(1)(b)1. 1st Trafficking in cocaine, more than 28 a. grams, less than 200 grams.

807 893.135(1)(c)1. 1st Trafficking in illegal drugs, more a. than 4 grams, less than 14 grams.

808 893.135(1)(d)1. 1st Trafficking in phencyclidine, more than 28 grams, less than 200 grams.

809 893.135(1)(e)1. 1st Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.

810 893.135(1)(f)1. 1st Trafficking in amphetamine, more than 14 grams, less than 28 grams.

811 893.135(1)(g)1. 1st Trafficking in flunitrazepam, 4 grams a. or more, less than 14 grams.

812 893.135(1)(h)1. 1st Trafficking in gamma-hydroxybutyric a. acid (GHB), 1 kilogram or more, less

than 5 kilograms.

813

893.135(1)(j)1. 1st
a.

Trafficking in 1,4-Butanediol, 1
kilogram or more, less than 5
kilograms.

814

893.135(1)(k)2. 1st
a.

Trafficking in Phenethylamines, 10
grams or more, less than 200 grams.

815

896.101(5)(a) 3rd

Money laundering, financial
transactions exceeding \$300 but less
than \$20,000.

816

896.104(4)(a)1. 3rd

Structuring transactions to evade
reporting or registration
requirements, financial transactions
exceeding \$300 but less than \$20,000.

817

(i) LEVEL 9

818

316.193(3)(c)3. 1st
b.

DUI manslaughter; failing to render
aid or give information.

819

327.35(3)(c)3.b 1st
.

BUI manslaughter; failing to render
aid or give information.

820

499.0053 1st

Sale or purchase of contraband legend
drugs resulting in great bodily harm.

821

560.123(8)(b)3. 1st

Failure to report currency or payment
instruments totaling or exceeding

\$100,000 by money transmitter.

822

560.125(5)(c) 1st Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.

823

655.50(10)(b)3. 1st Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.

824

775.0844 1st Aggravated white collar crime.

825

782.04(1) 1st Attempt, conspire, or solicit to commit premeditated murder.

826

782.04(3) 1st,PBL Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.

827

782.051(1) 1st Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).

828

782.07(2) 1st Aggravated manslaughter of an elderly person or disabled adult.

829

787.01(1)(a)1. 1st,PBL Kidnapping; hold for ransom or reward

or as a shield or hostage.

830	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
831	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
832	787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
833	790.161	1st	Attempted capital destructive device offense.
834	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
835	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
836	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
837			

838	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
839	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
840	800.04(5)(b)	1st	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
841	812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
842	812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
843	817.568(7)	2nd,PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
844	827.03(2)	1st	Aggravated child abuse.
845	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
	847.0145(2)	1st	Purchasing, or otherwise obtaining

custody or control, of a minor.

846 859.01 1st Poisoning or introducing bacteria,
radioactive materials, viruses, or
chemical compounds into food, drink,
medicine, or water with intent to kill
or injure another person.

847 893.135 1st Attempted capital trafficking offense.

848 893.135(1)(a)3. 1st Trafficking in cannabis, more than
10,000 lbs.

849 893.135(1)(b)1. 1st Trafficking in cocaine, more than 400
c. grams, less than 150 kilograms.

850 893.135(1)(c)1. 1st Trafficking in illegal drugs, more
c. than 28 grams, less than 30 kilograms.

851 893.135(1)(d)1. 1st Trafficking in phencyclidine, more
c. than 400 grams.

852 893.135(1)(e)1. 1st Trafficking in methaqualone, more than
c. 25 kilograms.

853 893.135(1)(f)1. 1st Trafficking in amphetamine, more than
c. 200 grams.

854 893.135(1)(h)1. 1st Trafficking in gamma-hydroxybutyric
c. acid (GHB), 10 kilograms or more.

855

- 856 893.135(1)(j)1. 1st Trafficking in 1,4-Butanediol, 10
c. kilograms or more.
- 857 893.135(1)(k)2. 1st Trafficking in Phenethylamines, 400
c. grams or more.
- 858 896.101(5)(c) 1st Money laundering, financial
instruments totaling or exceeding
\$100,000.
- 859 896.104(4)(a)3. 1st Structuring transactions to evade
reporting or registration
requirements, financial transactions
totaling or exceeding \$100,000.

860 Section 17. For the purpose of incorporating the amendment
861 to section 893.135, Florida Statutes, in references thereto,
862 subsection (1) of section 921.0024, Florida Statutes, is
863 reenacted to read:

864 921.0024 Criminal Punishment Code; worksheet computations;
865 scoresheets.--

866 (1)(a) The Criminal Punishment Code worksheet is used to
867 compute the subtotal and total sentence points as follows:

868
869 FLORIDA CRIMINAL PUNISHMENT CODE
870 WORKSHEET

871
872 OFFENSE SCORE
873

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Primary Offense				
Level	Sentence Points			Total
10	116	=		_____
9	92	=		_____
8	74	=		_____
7	56	=		_____
6	36	=		_____
5	28	=		_____
4	22	=		_____
3	16	=		_____
2	10	=		_____
1	4	=		_____
				<u>Total</u>

Additional Offenses				
Level	Sentence	Counts		Total

	Points				
891					
892	10	58	x	_____	= _____
893	9	46	x	_____	= _____
894	8	37	x	_____	= _____
895	7	28	x	_____	= _____
896	6	18	x	_____	= _____
897	5	5.4	x	_____	= _____
898	4	3.6	x	_____	= _____
899	3	2.4	x	_____	= _____
900	2	1.2	x	_____	= _____
901	1	0.7	x	_____	= _____
902	M	0.2	x	_____	= _____
903					
904					<u>Total</u>
905					
906					
907					
	Level	Sentence	Victim Injury	Number	Total

	Points				
908					
909	2nd degree murder- death	240	x	_____	= _____
910	Death	120	x	_____	= _____
911	Severe	40	x	_____	= _____
912	Moderate	18	x	_____	= _____
913	Slight	4	x	_____	= _____
914	Sexual Penetration	80	x	_____	= _____
915	Sexual contact	40	x	_____	= _____
916					
917					<u>Total</u>
918					
919					
920	Primary Offense + Additional Offenses + Victim Injury =				
921	TOTAL OFFENSE SCORE				
922					
923	PRIOR RECORD SCORE				
924					
925	Prior Record				

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	Level	Sentence Points		Number	=	Total
926						
927	10	29	x	_____	=	_____
928	9	23	x	_____	=	_____
929	8	19	x	_____	=	_____
930	7	14	x	_____	=	_____
931	6	9	x	_____	=	_____
932	5	3.6	x	_____	=	_____
933	4	2.4	x	_____	=	_____
934	3	1.6	x	_____	=	_____
935	2	0.8	x	_____	=	_____
936	1	0.5	x	_____	=	_____
937	M	0.2	x	_____	=	_____
938						
939						<u>Total</u>
940						
941						
942		TOTAL OFFENSE SCORE				
943		TOTAL PRIOR RECORD SCORE				

944
 945 LEGAL STATUS
 946 COMMUNITY SANCTION VIOLATION
 947 PRIOR SERIOUS FELONY
 948 PRIOR CAPITAL FELONY
 949 FIREARM OR SEMIAUTOMATIC WEAPON
 950 SUBTOTAL_____

951
 952 PRISON RELEASEE REOFFENDER (no)(yes)
 953 VIOLENT CAREER CRIMINAL (no)(yes)
 954 HABITUAL VIOLENT OFFENDER (no)(yes)
 955 HABITUAL OFFENDER (no)(yes)
 956 DRUG TRAFFICKER (no)(yes) (x multiplier)
 957 LAW ENF. PROTECT. (no)(yes) (x multiplier)
 958 MOTOR VEHICLE THEFT (no)(yes) (x multiplier)
 959 CRIMINAL STREET GANG OFFENSE (no)(yes) (x multiplier)
 960 DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (no)(yes)
 961 (x multiplier)
 962
 963 TOTAL SENTENCE POINTS_____

(b) WORKSHEET KEY:

967 Legal status points are assessed when any form of legal status
 968 existed at the time the offender committed an offense before the
 969 court for sentencing. Four (4) sentence points are assessed for
 970 an offender's legal status.

972 Community sanction violation points are assessed when a
973 community sanction violation is before the court for sentencing.
974 Six (6) sentence points are assessed for each community sanction
975 violation, and each successive community sanction violation;
976 however, if the community sanction violation includes a new
977 felony conviction before the sentencing court, twelve (12)
978 community sanction violation points are assessed for such
979 violation, and for each successive community sanction violation
980 involving a new felony conviction. Multiple counts of community
981 sanction violations before the sentencing court shall not be a
982 basis for multiplying the assessment of community sanction
983 violation points.

984
985 Prior serious felony points: If the offender has a primary
986 offense or any additional offense ranked in level 8, level 9, or
987 level 10, and one or more prior serious felonies, a single
988 assessment of 30 points shall be added. For purposes of this
989 section, a prior serious felony is an offense in the offender's
990 prior record that is ranked in level 8, level 9, or level 10
991 under s. 921.0022 or s. 921.0023 and for which the offender is
992 serving a sentence of confinement, supervision, or other
993 sanction or for which the offender's date of release from
994 confinement, supervision, or other sanction, whichever is later,
995 is within 3 years before the date the primary offense or any
996 additional offense was committed.

997
998 Prior capital felony points: If the offender has one or more
999 prior capital felonies in the offender's criminal record, points

1000 shall be added to the subtotal sentence points of the offender
 1001 equal to twice the number of points the offender receives for
 1002 the primary offense and any additional offense. A prior capital
 1003 felony in the offender's criminal record is a previous capital
 1004 felony offense for which the offender has entered a plea of nolo
 1005 contendere or guilty or has been found guilty; or a felony in
 1006 another jurisdiction which is a capital felony in that
 1007 jurisdiction, or would be a capital felony if the offense were
 1008 committed in this state.

1009
 1010 Possession of a firearm, semiautomatic firearm, or machine gun:
 1011 If the offender is convicted of committing or attempting to
 1012 commit any felony other than those enumerated in s. 775.087(2)
 1013 while having in his or her possession: a firearm as defined in
 1014 s. 790.001(6), an additional 18 sentence points are assessed; or
 1015 if the offender is convicted of committing or attempting to
 1016 commit any felony other than those enumerated in s. 775.087(3)
 1017 while having in his or her possession a semiautomatic firearm as
 1018 defined in s. 775.087(3) or a machine gun as defined in s.
 1019 790.001(9), an additional 25 sentence points are assessed.

1020
 1021 Sentencing multipliers:

1022
 1023 Drug trafficking: If the primary offense is drug trafficking
 1024 under s. 893.135, the subtotal sentence points are multiplied,
 1025 at the discretion of the court, for a level 7 or level 8
 1026 offense, by 1.5. The state attorney may move the sentencing
 1027 court to reduce or suspend the sentence of a person convicted of

1028 a level 7 or level 8 offense, if the offender provides
 1029 substantial assistance as described in s. 893.135(4).
 1030
 1031 Law enforcement protection: If the primary offense is a
 1032 violation of the Law Enforcement Protection Act under s.
 1033 775.0823(2), the subtotal sentence points are multiplied by 2.5.
 1034 If the primary offense is a violation of s. 775.0823(3), (4),
 1035 (5), (6), (7), or (8), the subtotal sentence points are
 1036 multiplied by 2.0. If the primary offense is a violation of s.
 1037 784.07(3) or s. 775.0875(1), or of the Law Enforcement
 1038 Protection Act under s. 775.0823(9) or (10), the subtotal
 1039 sentence points are multiplied by 1.5.
 1040
 1041 Grand theft of a motor vehicle: If the primary offense is grand
 1042 theft of the third degree involving a motor vehicle and in the
 1043 offender's prior record, there are three or more grand thefts of
 1044 the third degree involving a motor vehicle, the subtotal
 1045 sentence points are multiplied by 1.5.
 1046
 1047 Offense related to a criminal street gang: If the offender is
 1048 convicted of the primary offense and committed that offense for
 1049 the purpose of benefiting, promoting, or furthering the
 1050 interests of a criminal street gang as prohibited under s.
 1051 874.04, the subtotal sentence points are multiplied by 1.5.
 1052
 1053 Domestic violence in the presence of a child: If the offender is
 1054 convicted of the primary offense and the primary offense is a
 1055 crime of domestic violence, as defined in s. 741.28, which was

1056 committed in the presence of a child under 16 years of age who
 1057 is a family household member as defined in s. 741.28(2) with the
 1058 victim or perpetrator, the subtotal sentence points are
 1059 multiplied by 1.5.

1060 Section 18. For the purpose of incorporating the amendment
 1061 to section 893.135, Florida Statutes, in a reference thereto,
 1062 subsection (2) of section 921.142, Florida Statutes, is
 1063 reenacted to read:

1064 921.142 Sentence of death or life imprisonment for capital
 1065 drug trafficking felonies; further proceedings to determine
 1066 sentence.--

1067 (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.--Upon
 1068 conviction or adjudication of guilt of a defendant of a capital
 1069 felony under s. 893.135, the court shall conduct a separate
 1070 sentencing proceeding to determine whether the defendant should
 1071 be sentenced to death or life imprisonment as authorized by s.
 1072 775.082. The proceeding shall be conducted by the trial judge
 1073 before the trial jury as soon as practicable. If, through
 1074 impossibility or inability, the trial jury is unable to
 1075 reconvene for a hearing on the issue of penalty, having
 1076 determined the guilt of the accused, the trial judge may summon
 1077 a special juror or jurors as provided in chapter 913 to
 1078 determine the issue of the imposition of the penalty. If the
 1079 trial jury has been waived, or if the defendant pleaded guilty,
 1080 the sentencing proceeding shall be conducted before a jury
 1081 impaneled for that purpose, unless waived by the defendant. In
 1082 the proceeding, evidence may be presented as to any matter that
 1083 the court deems relevant to the nature of the crime and the

1084 character of the defendant and shall include matters relating to
 1085 any of the aggravating or mitigating circumstances enumerated in
 1086 subsections (6) and (7). Any such evidence which the court deems
 1087 to have probative value may be received, regardless of its
 1088 admissibility under the exclusionary rules of evidence, provided
 1089 the defendant is accorded a fair opportunity to rebut any
 1090 hearsay statements. However, this subsection shall not be
 1091 construed to authorize the introduction of any evidence secured
 1092 in violation of the Constitution of the United States or the
 1093 Constitution of the State of Florida. The state and the
 1094 defendant or the defendant's counsel shall be permitted to
 1095 present argument for or against sentence of death.

1096 Section 19. For the purpose of incorporating the amendment
 1097 to section 893.13, Florida Statutes, in references thereto,
 1098 subsection (1) of section 921.187, Florida Statutes, is
 1099 reenacted to read:

1100 921.187 Disposition and sentencing; alternatives;
 1101 restitution.--

1102 (1) The alternatives provided in this section for the
 1103 disposition of criminal cases shall be used in a manner that
 1104 will best serve the needs of society, punish criminal offenders,
 1105 and provide the opportunity for rehabilitation.

1106 (a) If the offender does not receive a state prison
 1107 sentence, the court may:

1108 1. Impose a split sentence whereby the offender is to be
 1109 placed on probation upon completion of any specified period of
 1110 such sentence, which period may include a term of years or less.

1111 2. Make any other disposition that is authorized by law.

1112 3. Place the offender on probation with or without an
1113 adjudication of guilt pursuant to s. 948.01.

1114 4. Impose a fine and probation pursuant to s. 948.011 when
1115 the offense is punishable by both a fine and imprisonment and
1116 probation is authorized.

1117 5. Place the offender into community control requiring
1118 intensive supervision and surveillance pursuant to chapter 948.

1119 6. Impose, as a condition of probation or community
1120 control, a period of treatment which shall be restricted to a
1121 county facility, a Department of Corrections probation and
1122 restitution center, a probation program drug punishment
1123 treatment community, or a community residential or
1124 nonresidential facility, excluding a community correctional
1125 center as defined in s. 944.026, which is owned and operated by
1126 any qualified public or private entity providing such services.
1127 Before admission to such a facility, the court shall obtain an
1128 individual assessment and recommendations on the appropriate
1129 treatment needs, which shall be considered by the court in
1130 ordering such placements. Placement in such a facility, except
1131 for a county residential probation facility, may not exceed 364
1132 days. Placement in a county residential probation facility may
1133 not exceed 3 years. Early termination of placement may be
1134 recommended to the court, when appropriate, by the center
1135 supervisor, the supervising probation officer, or the probation
1136 program manager.

1137 7. Sentence the offender pursuant to s. 922.051 to
1138 imprisonment in a county jail when a statute directs
1139 imprisonment in a state prison, if the offender's cumulative

1140 sentence, whether from the same circuit or from separate
 1141 circuits, is not more than 364 days.

1142 8. Sentence the offender who is to be punished by
 1143 imprisonment in a county jail to a jail in another county if
 1144 there is no jail within the county suitable for such prisoner
 1145 pursuant to s. 950.01.

1146 9. Require the offender to participate in a work-release
 1147 or educational or technical training program pursuant to s.
 1148 951.24 while serving a sentence in a county jail, if such a
 1149 program is available.

1150 10. Require the offender to perform a specified public
 1151 service pursuant to s. 775.091.

1152 11. Require the offender who violates chapter 893 or
 1153 violates any law while under the influence of a controlled
 1154 substance or alcohol to participate in a substance abuse
 1155 program.

1156 12.a. Require the offender who violates any criminal
 1157 provision of chapter 893 to pay an additional assessment in an
 1158 amount up to the amount of any fine imposed, pursuant to ss.
 1159 938.21 and 938.23.

1160 b. Require the offender who violates any provision of s.
 1161 893.13 to pay an additional assessment in an amount of \$100,
 1162 pursuant to ss. 938.25 and 943.361.

1163 13. Impose a split sentence whereby the offender is to be
 1164 placed in a county jail or county work camp upon the completion
 1165 of any specified term of community supervision.

1166 14. Impose split probation whereby upon satisfactory
 1167 completion of half the term of probation, the Department of

1168 Corrections may place the offender on administrative probation
 1169 pursuant to s. 948.01 for the remainder of the term of
 1170 supervision.

1171 15. Require residence in a state probation and restitution
 1172 center or private drug treatment program for offenders on
 1173 community control or offenders who have violated conditions of
 1174 probation.

1175 16. Impose any other sanction which is provided within the
 1176 community and approved as an intermediate sanction by the county
 1177 public safety coordinating council as described in s. 951.26.

1178 17. Impose, as a condition of community control,
 1179 probation, or probation following incarceration, a requirement
 1180 that an offender who has not obtained a high school diploma or
 1181 high school equivalency diploma or who lacks basic or functional
 1182 literacy skills, upon acceptance by an adult education program,
 1183 make a good faith effort toward completion of such basic or
 1184 functional literacy skills or high school equivalency diploma,
 1185 as defined in s. 1003.435, in accordance with the assessed adult
 1186 general education needs of the individual offender.

1187 (b)1. Notwithstanding any provision of former s. 921.001
 1188 or s. 921.002 to the contrary, on or after October 1, 1993, the
 1189 court may require any defendant who violates s. 893.13(1)(a)1.,
 1190 (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and meets the criteria
 1191 described in s. 893.13(10), to successfully complete a term of
 1192 probation pursuant to the terms and conditions set forth in s.
 1193 948.034(1), in lieu of serving a term of imprisonment.

1194 2. Notwithstanding any provision of former s. 921.001 or
 1195 s. 921.002 to the contrary, on or after October 1, 1993, the

1196 court may require any defendant who violates s. 893.13(1)(a)2.,
1197 (2)(a)2., (5)(b), or (6)(a), and meets the criteria described in
1198 s. 893.13(11), to successfully complete a term of probation
1199 pursuant to the terms and conditions set forth in s. 948.034(2),
1200 in lieu of serving a term of imprisonment.

1201 Section 20. For the purpose of incorporating the amendment
1202 to section 893.13, Florida Statutes, in a reference thereto,
1203 section 938.25, Florida Statutes, is reenacted to read:

1204 938.25 Operating Trust Fund of the Department of Law
1205 Enforcement.--Notwithstanding any provision to the contrary of
1206 the laws of this state, the court may assess any defendant who
1207 pleads guilty or nolo contendere to, or is convicted of, a
1208 violation of any provision of s. 893.13, without regard to
1209 whether adjudication was withheld, in addition to any fine and
1210 other penalty provided or authorized by law, an amount of \$100,
1211 to be paid to the clerk of the court, who shall forward it to
1212 the Department of Revenue for deposit in the Operating Trust
1213 Fund of the Department of Law Enforcement to be used by the
1214 statewide criminal analysis laboratory system for the purposes
1215 specified in s. 943.361. The court is authorized to order a
1216 defendant to pay an additional assessment if it finds that the
1217 defendant has the ability to pay the fine and the additional
1218 assessment and will not be prevented thereby from being
1219 rehabilitated or from making restitution.

1220 Section 21. For the purpose of incorporating the amendment
1221 to section 893.135, Florida Statutes, in references thereto,
1222 section 943.0585, Florida Statutes, is reenacted to read:

1223 943.0585 Court-ordered expunction of criminal history
1224 records.--The courts of this state have jurisdiction over their
1225 own procedures, including the maintenance, expunction, and
1226 correction of judicial records containing criminal history
1227 information to the extent such procedures are not inconsistent
1228 with the conditions, responsibilities, and duties established by
1229 this section. Any court of competent jurisdiction may order a
1230 criminal justice agency to expunge the criminal history record
1231 of a minor or an adult who complies with the requirements of
1232 this section. The court shall not order a criminal justice
1233 agency to expunge a criminal history record until the person
1234 seeking to expunge a criminal history record has applied for and
1235 received a certificate of eligibility for expunction pursuant to
1236 subsection (2). A criminal history record that relates to a
1237 violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s.
1238 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s.
1239 847.0135, s. 847.0145, s. 893.135, or a violation enumerated in
1240 s. 907.041 may not be expunged, without regard to whether
1241 adjudication was withheld, if the defendant was found guilty of
1242 or pled guilty or nolo contendere to the offense, or if the
1243 defendant, as a minor, was found to have committed, or pled
1244 guilty or nolo contendere to committing, the offense as a
1245 delinquent act. The court may only order expunction of a
1246 criminal history record pertaining to one arrest or one incident
1247 of alleged criminal activity, except as provided in this
1248 section. The court may, at its sole discretion, order the
1249 expunction of a criminal history record pertaining to more than
1250 one arrest if the additional arrests directly relate to the

1251 original arrest. If the court intends to order the expunction of
1252 records pertaining to such additional arrests, such intent must
1253 be specified in the order. A criminal justice agency may not
1254 expunge any record pertaining to such additional arrests if the
1255 order to expunge does not articulate the intention of the court
1256 to expunge a record pertaining to more than one arrest. This
1257 section does not prevent the court from ordering the expunction
1258 of only a portion of a criminal history record pertaining to one
1259 arrest or one incident of alleged criminal activity.

1260 Notwithstanding any law to the contrary, a criminal justice
1261 agency may comply with laws, court orders, and official requests
1262 of other jurisdictions relating to expunction, correction, or
1263 confidential handling of criminal history records or information
1264 derived therefrom. This section does not confer any right to the
1265 expunction of any criminal history record, and any request for
1266 expunction of a criminal history record may be denied at the
1267 sole discretion of the court.

1268 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.--Each
1269 petition to a court to expunge a criminal history record is
1270 complete only when accompanied by:

1271 (a) A certificate of eligibility for expunction issued by
1272 the department pursuant to subsection (2).

1273 (b) The petitioner's sworn statement attesting that the
1274 petitioner:

1275 1. Has never, prior to the date on which the petition is
1276 filed, been adjudicated guilty of a criminal offense or
1277 comparable ordinance violation or adjudicated delinquent for

1278 committing a felony or a misdemeanor specified in s.
 1279 943.051(3)(b).

1280 2. Has not been adjudicated guilty of, or adjudicated
 1281 delinquent for committing, any of the acts stemming from the
 1282 arrest or alleged criminal activity to which the petition
 1283 pertains.

1284 3. Has never secured a prior sealing or expunction of a
 1285 criminal history record under this section, former s. 893.14,
 1286 former s. 901.33, or former s. 943.058, or from any jurisdiction
 1287 outside the state.

1288 4. Is eligible for such an expunction to the best of his
 1289 or her knowledge or belief and does not have any other petition
 1290 to expunge or any petition to seal pending before any court.

1291
 1292 Any person who knowingly provides false information on such
 1293 sworn statement to the court commits a felony of the third
 1294 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1295 775.084.

1296 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior to
 1297 petitioning the court to expunge a criminal history record, a
 1298 person seeking to expunge a criminal history record shall apply
 1299 to the department for a certificate of eligibility for
 1300 expunction. The department shall, by rule adopted pursuant to
 1301 chapter 120, establish procedures pertaining to the application
 1302 for and issuance of certificates of eligibility for expunction.
 1303 The department shall issue a certificate of eligibility for
 1304 expunction to a person who is the subject of a criminal history
 1305 record if that person:

1306 (a) Has obtained, and submitted to the department, a
 1307 written, certified statement from the appropriate state attorney
 1308 or statewide prosecutor which indicates:

1309 1. That an indictment, information, or other charging
 1310 document was not filed or issued in the case.

1311 2. That an indictment, information, or other charging
 1312 document, if filed or issued in the case, was dismissed or nolle
 1313 prosequi by the state attorney or statewide prosecutor, or was
 1314 dismissed by a court of competent jurisdiction.

1315 3. That the criminal history record does not relate to a
 1316 violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s.
 1317 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s.
 1318 847.0135, s. 847.0145, s. 893.135, or a violation enumerated in
 1319 s. 907.041, where the defendant was found guilty of, or pled
 1320 guilty or nolo contendere to any such offense, or that the
 1321 defendant, as a minor, was found to have committed, or pled
 1322 guilty or nolo contendere to committing, such an offense as a
 1323 delinquent act, without regard to whether adjudication was
 1324 withheld.

1325 (b) Remits a \$75 processing fee to the department for
 1326 placement in the Department of Law Enforcement Operating Trust
 1327 Fund, unless such fee is waived by the executive director.

1328 (c) Has submitted to the department a certified copy of
 1329 the disposition of the charge to which the petition to expunge
 1330 pertains.

1331 (d) Has never, prior to the date on which the application
 1332 for a certificate of eligibility is filed, been adjudicated
 1333 guilty of a criminal offense or comparable ordinance violation

1334 or adjudicated delinquent for committing a felony or a
 1335 misdemeanor specified in s. 943.051(3)(b).

1336 (e) Has not been adjudicated guilty of, or adjudicated
 1337 delinquent for committing, any of the acts stemming from the
 1338 arrest or alleged criminal activity to which the petition to
 1339 expunge pertains.

1340 (f) Has never secured a prior sealing or expunction of a
 1341 criminal history record under this section, former s. 893.14,
 1342 former s. 901.33, or former s. 943.058.

1343 (g) Is no longer under court supervision applicable to the
 1344 disposition of the arrest or alleged criminal activity to which
 1345 the petition to expunge pertains.

1346 (h) Is not required to wait a minimum of 10 years prior to
 1347 being eligible for an expunction of such records because all
 1348 charges related to the arrest or criminal activity to which the
 1349 petition to expunge pertains were dismissed prior to trial,
 1350 adjudication, or the withholding of adjudication. Otherwise,
 1351 such criminal history record must be sealed under this section,
 1352 former s. 893.14, former s. 901.33, or former s. 943.058 for at
 1353 least 10 years before such record is eligible for expunction.

1354 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.--

1355 (a) In judicial proceedings under this section, a copy of
 1356 the completed petition to expunge shall be served upon the
 1357 appropriate state attorney or the statewide prosecutor and upon
 1358 the arresting agency; however, it is not necessary to make any
 1359 agency other than the state a party. The appropriate state
 1360 attorney or the statewide prosecutor and the arresting agency

1361 | may respond to the court regarding the completed petition to
1362 | expunge.

1363 | (b) If relief is granted by the court, the clerk of the
1364 | court shall certify copies of the order to the appropriate state
1365 | attorney or the statewide prosecutor and the arresting agency.
1366 | The arresting agency is responsible for forwarding the order to
1367 | any other agency to which the arresting agency disseminated the
1368 | criminal history record information to which the order pertains.
1369 | The department shall forward the order to expunge to the Federal
1370 | Bureau of Investigation. The clerk of the court shall certify a
1371 | copy of the order to any other agency which the records of the
1372 | court reflect has received the criminal history record from the
1373 | court.

1374 | (c) For an order to expunge entered by a court prior to
1375 | July 1, 1992, the department shall notify the appropriate state
1376 | attorney or statewide prosecutor of an order to expunge which is
1377 | contrary to law because the person who is the subject of the
1378 | record has previously been convicted of a crime or comparable
1379 | ordinance violation or has had a prior criminal history record
1380 | sealed or expunged. Upon receipt of such notice, the appropriate
1381 | state attorney or statewide prosecutor shall take action, within
1382 | 60 days, to correct the record and petition the court to void
1383 | the order to expunge. The department shall seal the record until
1384 | such time as the order is voided by the court.

1385 | (d) On or after July 1, 1992, the department or any other
1386 | criminal justice agency is not required to act on an order to
1387 | expunge entered by a court when such order does not comply with
1388 | the requirements of this section. Upon receipt of such an order,

1389 | the department must notify the issuing court, the appropriate
1390 | state attorney or statewide prosecutor, the petitioner or the
1391 | petitioner's attorney, and the arresting agency of the reason
1392 | for noncompliance. The appropriate state attorney or statewide
1393 | prosecutor shall take action within 60 days to correct the
1394 | record and petition the court to void the order. No cause of
1395 | action, including contempt of court, shall arise against any
1396 | criminal justice agency for failure to comply with an order to
1397 | expunge when the petitioner for such order failed to obtain the
1398 | certificate of eligibility as required by this section or such
1399 | order does not otherwise comply with the requirements of this
1400 | section.

1401 | (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
1402 | criminal history record of a minor or an adult which is ordered
1403 | expunged by a court of competent jurisdiction pursuant to this
1404 | section must be physically destroyed or obliterated by any
1405 | criminal justice agency having custody of such record; except
1406 | that any criminal history record in the custody of the
1407 | department must be retained in all cases. A criminal history
1408 | record ordered expunged that is retained by the department is
1409 | confidential and exempt from the provisions of s. 119.07(1) and
1410 | s. 24(a), Art. I of the State Constitution and not available to
1411 | any person or entity except upon order of a court of competent
1412 | jurisdiction. A criminal justice agency may retain a notation
1413 | indicating compliance with an order to expunge.

1414 | (a) The person who is the subject of a criminal history
1415 | record that is expunged under this section or under other
1416 | provisions of law, including former s. 893.14, former s. 901.33,

1417 and former s. 943.058, may lawfully deny or fail to acknowledge
 1418 the arrests covered by the expunged record, except when the
 1419 subject of the record:

1420 1. Is a candidate for employment with a criminal justice
 1421 agency;

1422 2. Is a defendant in a criminal prosecution;

1423 3. Concurrently or subsequently petitions for relief under
 1424 this section or s. 943.059;

1425 4. Is a candidate for admission to The Florida Bar;

1426 5. Is seeking to be employed or licensed by or to contract
 1427 with the Department of Children and Family Services or the
 1428 Department of Juvenile Justice or to be employed or used by such
 1429 contractor or licensee in a sensitive position having direct
 1430 contact with children, the developmentally disabled, the aged,
 1431 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.
 1432 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.

1433 409.175(2)(i), s. 415.102(4), s. 985.407, or chapter 400; or

1434 6. Is seeking to be employed or licensed by the Office of
 1435 Teacher Education, Certification, Staff Development, and
 1436 Professional Practices of the Department of Education, any
 1437 district school board, or any local governmental entity that
 1438 licenses child care facilities.

1439 (b) Subject to the exceptions in paragraph (a), a person
 1440 who has been granted an expunction under this section, former s.
 1441 893.14, former s. 901.33, or former s. 943.058 may not be held
 1442 under any provision of law of this state to commit perjury or to
 1443 be otherwise liable for giving a false statement by reason of

1444 such person's failure to recite or acknowledge an expunged
1445 criminal history record.

1446 (c) Information relating to the existence of an expunged
1447 criminal history record which is provided in accordance with
1448 paragraph (a) is confidential and exempt from the provisions of
1449 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
1450 except that the department shall disclose the existence of a
1451 criminal history record ordered expunged to the entities set
1452 forth in subparagraphs (a)1., 4., 5., and 6. for their
1453 respective licensing and employment purposes, and to criminal
1454 justice agencies for their respective criminal justice purposes.
1455 It is unlawful for any employee of an entity set forth in
1456 subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or
1457 subparagraph (a)6. to disclose information relating to the
1458 existence of an expunged criminal history record of a person
1459 seeking employment or licensure with such entity or contractor,
1460 except to the person to whom the criminal history record relates
1461 or to persons having direct responsibility for employment or
1462 licensure decisions. Any person who violates this paragraph
1463 commits a misdemeanor of the first degree, punishable as
1464 provided in s. 775.082 or s. 775.083.

1465 (5) STATUTORY REFERENCES.--Any reference to any other
1466 chapter, section, or subdivision of the Florida Statutes in this
1467 section constitutes a general reference under the doctrine of
1468 incorporation by reference.

1469 Section 22. For the purpose of incorporating the amendment
1470 to section 893.135, Florida Statutes, in references thereto,
1471 Section 943.059, Florida Statutes, is reenacted to read:

1472 943.059 Court-ordered sealing of criminal history
 1473 records.--The courts of this state shall continue to have
 1474 jurisdiction over their own procedures, including the
 1475 maintenance, sealing, and correction of judicial records
 1476 containing criminal history information to the extent such
 1477 procedures are not inconsistent with the conditions,
 1478 responsibilities, and duties established by this section. Any
 1479 court of competent jurisdiction may order a criminal justice
 1480 agency to seal the criminal history record of a minor or an
 1481 adult who complies with the requirements of this section. The
 1482 court shall not order a criminal justice agency to seal a
 1483 criminal history record until the person seeking to seal a
 1484 criminal history record has applied for and received a
 1485 certificate of eligibility for sealing pursuant to subsection
 1486 (2). A criminal history record that relates to a violation of s.
 1487 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.
 1488 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s.
 1489 847.0145, s. 893.135, or a violation enumerated in s. 907.041
 1490 may not be sealed, without regard to whether adjudication was
 1491 withheld, if the defendant was found guilty of or pled guilty or
 1492 nolo contendere to the offense, or if the defendant, as a minor,
 1493 was found to have committed or pled guilty or nolo contendere to
 1494 committing the offense as a delinquent act. The court may only
 1495 order sealing of a criminal history record pertaining to one
 1496 arrest or one incident of alleged criminal activity, except as
 1497 provided in this section. The court may, at its sole discretion,
 1498 order the sealing of a criminal history record pertaining to
 1499 more than one arrest if the additional arrests directly relate

1500 to the original arrest. If the court intends to order the
 1501 sealing of records pertaining to such additional arrests, such
 1502 intent must be specified in the order. A criminal justice agency
 1503 may not seal any record pertaining to such additional arrests if
 1504 the order to seal does not articulate the intention of the court
 1505 to seal records pertaining to more than one arrest. This section
 1506 does not prevent the court from ordering the sealing of only a
 1507 portion of a criminal history record pertaining to one arrest or
 1508 one incident of alleged criminal activity. Notwithstanding any
 1509 law to the contrary, a criminal justice agency may comply with
 1510 laws, court orders, and official requests of other jurisdictions
 1511 relating to sealing, correction, or confidential handling of
 1512 criminal history records or information derived therefrom. This
 1513 section does not confer any right to the sealing of any criminal
 1514 history record, and any request for sealing a criminal history
 1515 record may be denied at the sole discretion of the court.

1516 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each
 1517 petition to a court to seal a criminal history record is
 1518 complete only when accompanied by:

1519 (a) A certificate of eligibility for sealing issued by the
 1520 department pursuant to subsection (2).

1521 (b) The petitioner's sworn statement attesting that the
 1522 petitioner:

1523 1. Has never, prior to the date on which the petition is
 1524 filed, been adjudicated guilty of a criminal offense or
 1525 comparable ordinance violation or adjudicated delinquent for
 1526 committing a felony or a misdemeanor specified in s.
 1527 943.051(3)(b).

1528 2. Has not been adjudicated guilty of or adjudicated
 1529 delinquent for committing any of the acts stemming from the
 1530 arrest or alleged criminal activity to which the petition to
 1531 seal pertains.

1532 3. Has never secured a prior sealing or expunction of a
 1533 criminal history record under this section, former s. 893.14,
 1534 former s. 901.33, former s. 943.058, or from any jurisdiction
 1535 outside the state.

1536 4. Is eligible for such a sealing to the best of his or
 1537 her knowledge or belief and does not have any other petition to
 1538 seal or any petition to expunge pending before any court.

1539
 1540 Any person who knowingly provides false information on such
 1541 sworn statement to the court commits a felony of the third
 1542 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1543 775.084.

1544 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
 1545 petitioning the court to seal a criminal history record, a
 1546 person seeking to seal a criminal history record shall apply to
 1547 the department for a certificate of eligibility for sealing. The
 1548 department shall, by rule adopted pursuant to chapter 120,
 1549 establish procedures pertaining to the application for and
 1550 issuance of certificates of eligibility for sealing. The
 1551 department shall issue a certificate of eligibility for sealing
 1552 to a person who is the subject of a criminal history record
 1553 provided that such person:

1554 (a) Has submitted to the department a certified copy of
 1555 the disposition of the charge to which the petition to seal
 1556 pertains.

1557 (b) Remits a \$75 processing fee to the department for
 1558 placement in the Department of Law Enforcement Operating Trust
 1559 Fund, unless such fee is waived by the executive director.

1560 (c) Has never, prior to the date on which the application
 1561 for a certificate of eligibility is filed, been adjudicated
 1562 guilty of a criminal offense or comparable ordinance violation
 1563 or adjudicated delinquent for committing a felony or a
 1564 misdemeanor specified in s. 943.051(3)(b).

1565 (d) Has not been adjudicated guilty of or adjudicated
 1566 delinquent for committing any of the acts stemming from the
 1567 arrest or alleged criminal activity to which the petition to
 1568 seal pertains.

1569 (e) Has never secured a prior sealing or expunction of a
 1570 criminal history record under this section, former s. 893.14,
 1571 former s. 901.33, or former s. 943.058.

1572 (f) Is no longer under court supervision applicable to the
 1573 disposition of the arrest or alleged criminal activity to which
 1574 the petition to seal pertains.

1575 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

1576 (a) In judicial proceedings under this section, a copy of
 1577 the completed petition to seal shall be served upon the
 1578 appropriate state attorney or the statewide prosecutor and upon
 1579 the arresting agency; however, it is not necessary to make any
 1580 agency other than the state a party. The appropriate state
 1581 attorney or the statewide prosecutor and the arresting agency

1582 | may respond to the court regarding the completed petition to
1583 | seal.

1584 | (b) If relief is granted by the court, the clerk of the
1585 | court shall certify copies of the order to the appropriate state
1586 | attorney or the statewide prosecutor and to the arresting
1587 | agency. The arresting agency is responsible for forwarding the
1588 | order to any other agency to which the arresting agency
1589 | disseminated the criminal history record information to which
1590 | the order pertains. The department shall forward the order to
1591 | seal to the Federal Bureau of Investigation. The clerk of the
1592 | court shall certify a copy of the order to any other agency
1593 | which the records of the court reflect has received the criminal
1594 | history record from the court.

1595 | (c) For an order to seal entered by a court prior to July
1596 | 1, 1992, the department shall notify the appropriate state
1597 | attorney or statewide prosecutor of any order to seal which is
1598 | contrary to law because the person who is the subject of the
1599 | record has previously been convicted of a crime or comparable
1600 | ordinance violation or has had a prior criminal history record
1601 | sealed or expunged. Upon receipt of such notice, the appropriate
1602 | state attorney or statewide prosecutor shall take action, within
1603 | 60 days, to correct the record and petition the court to void
1604 | the order to seal. The department shall seal the record until
1605 | such time as the order is voided by the court.

1606 | (d) On or after July 1, 1992, the department or any other
1607 | criminal justice agency is not required to act on an order to
1608 | seal entered by a court when such order does not comply with the
1609 | requirements of this section. Upon receipt of such an order, the

1610 department must notify the issuing court, the appropriate state
1611 attorney or statewide prosecutor, the petitioner or the
1612 petitioner's attorney, and the arresting agency of the reason
1613 for noncompliance. The appropriate state attorney or statewide
1614 prosecutor shall take action within 60 days to correct the
1615 record and petition the court to void the order. No cause of
1616 action, including contempt of court, shall arise against any
1617 criminal justice agency for failure to comply with an order to
1618 seal when the petitioner for such order failed to obtain the
1619 certificate of eligibility as required by this section or when
1620 such order does not comply with the requirements of this
1621 section.

1622 (e) An order sealing a criminal history record pursuant to
1623 this section does not require that such record be surrendered to
1624 the court, and such record shall continue to be maintained by
1625 the department and other criminal justice agencies.

1626 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal
1627 history record of a minor or an adult which is ordered sealed by
1628 a court of competent jurisdiction pursuant to this section is
1629 confidential and exempt from the provisions of s. 119.07(1) and
1630 s. 24(a), Art. I of the State Constitution and is available only
1631 to the person who is the subject of the record, to the subject's
1632 attorney, to criminal justice agencies for their respective
1633 criminal justice purposes, or to those entities set forth in
1634 subparagraphs (a)1., 4., 5., and 6. for their respective
1635 licensing and employment purposes.

1636 (a) The subject of a criminal history record sealed under
1637 this section or under other provisions of law, including former

1638 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
 1639 deny or fail to acknowledge the arrests covered by the sealed
 1640 record, except when the subject of the record:

- 1641 1. Is a candidate for employment with a criminal justice
 1642 agency;
- 1643 2. Is a defendant in a criminal prosecution;
- 1644 3. Concurrently or subsequently petitions for relief under
 1645 this section or s. 943.0585;
- 1646 4. Is a candidate for admission to The Florida Bar;
- 1647 5. Is seeking to be employed or licensed by or to contract
 1648 with the Department of Children and Family Services or the
 1649 Department of Juvenile Justice or to be employed or used by such
 1650 contractor or licensee in a sensitive position having direct
 1651 contact with children, the developmentally disabled, the aged,
 1652 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.
 1653 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
 1654 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter
 1655 400; or
- 1656 6. Is seeking to be employed or licensed by the Office of
 1657 Teacher Education, Certification, Staff Development, and
 1658 Professional Practices of the Department of Education, any
 1659 district school board, or any local governmental entity which
 1660 licenses child care facilities.

1661 (b) Subject to the exceptions in paragraph (a), a person
 1662 who has been granted a sealing under this section, former s.
 1663 893.14, former s. 901.33, or former s. 943.058 may not be held
 1664 under any provision of law of this state to commit perjury or to
 1665 be otherwise liable for giving a false statement by reason of

1666 such person's failure to recite or acknowledge a sealed criminal
 1667 history record.

1668 (c) Information relating to the existence of a sealed
 1669 criminal record provided in accordance with the provisions of
 1670 paragraph (a) is confidential and exempt from the provisions of
 1671 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 1672 except that the department shall disclose the sealed criminal
 1673 history record to the entities set forth in subparagraphs (a)1.,
 1674 4., 5., and 6. for their respective licensing and employment
 1675 purposes. It is unlawful for any employee of an entity set forth
 1676 in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5.,
 1677 or subparagraph (a)6. to disclose information relating to the
 1678 existence of a sealed criminal history record of a person
 1679 seeking employment or licensure with such entity or contractor,
 1680 except to the person to whom the criminal history record relates
 1681 or to persons having direct responsibility for employment or
 1682 licensure decisions. Any person who violates the provisions of
 1683 this paragraph commits a misdemeanor of the first degree,
 1684 punishable as provided in s. 775.082 or s. 775.083.

1685 (5) STATUTORY REFERENCES.--Any reference to any other
 1686 chapter, section, or subdivision of the Florida Statutes in this
 1687 section constitutes a general reference under the doctrine of
 1688 incorporation by reference.

1689 Section 23. For the purpose of incorporating the amendment
 1690 to section 893.13, Florida Statutes, in references thereto,
 1691 subsections (1) and (2) of section 948.034, Florida Statutes,
 1692 are reenacted to read:

1693 948.034 Terms and conditions of probation; community
 1694 residential drug punishment centers.--

1695 (1) On or after October 1, 1993, any person who violates
 1696 s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a) may,
 1697 in the discretion of the trial court, be required to
 1698 successfully complete a term of probation in lieu of serving a
 1699 term of imprisonment as required or authorized by s. 775.084,
 1700 former s. 921.001, or s. 921.002, as follows:

1701 (a) If the person has not previously been convicted of
 1702 violating s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or
 1703 (5)(a), adjudication may be withheld and the offender may be
 1704 placed on probation for not less than 18 months, as a condition
 1705 of which the court shall require the offender to reside at a
 1706 community residential drug punishment center for 90 days. The
 1707 offender must comply with all rules and regulations of the
 1708 center and must pay a fee for the costs of room and board and
 1709 residential supervision. Placement of an offender into a
 1710 community residential drug punishment center is subject to
 1711 budgetary considerations and availability of bed space. If the
 1712 court requires the offender to reside at a community residential
 1713 drug punishment center, the court shall also require the
 1714 offender to comply with one or more of the other following terms
 1715 and conditions:

1716 1. Pay a fine of not less than \$500 nor more than \$10,000
 1717 pursuant to s. 775.083(1)(c).

1718 2. Enter, regularly attend, and successfully complete a
 1719 substance abuse education program of at least 40 hours or a
 1720 prescribed substance abuse treatment program provided by a

1721 treatment resource licensed pursuant to chapter 397 or by a
1722 hospital licensed pursuant to chapter 395, as specified by the
1723 court. In addition, the court may refer the offender to a
1724 licensed agency for substance abuse evaluation and, if
1725 appropriate, substance abuse treatment subject to the ability of
1726 the offender to pay for such evaluation and treatment. If such
1727 referral is made, the offender must comply and must pay for the
1728 reasonable cost of the evaluation and treatment.

1729 3. Perform at least 100 hours of public service.

1730 4. Submit to routine and random drug testing which may be
1731 conducted during the probationary period, with the reasonable
1732 costs thereof borne by the offender.

1733 5. Participate, at his or her own expense, in an
1734 appropriate self-help group, such as Narcotics Anonymous,
1735 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1736 (b) If the person has been previously convicted of one
1737 felony violation of s. 893.13(1)(a)1., (1)(c)2., (1)(d)2.,
1738 (2)(a)1., or (5)(a), adjudication may not be withheld and the
1739 offender may be placed on probation for not less than 24 months,
1740 as a condition of which the court shall require the offender to
1741 reside at a community residential drug punishment center for 180
1742 days. The offender must comply with all rules and regulations of
1743 the center and must pay a fee for the costs of room and board
1744 and residential supervision. Placement of an offender into a
1745 community residential drug punishment center is subject to
1746 budgetary considerations and availability of bed space. If the
1747 court requires the offender to reside at a community residential
1748 drug punishment center, the court shall also require the

1749 offender to comply with one or more of the other following terms
 1750 and conditions:

1751 1. Pay a fine of not less than \$1,000 nor more than
 1752 \$10,000 pursuant to s. 775.083(1)(c).

1753 2. Enter, regularly attend, and successfully complete a
 1754 substance abuse education program of at least 40 hours or a
 1755 prescribed substance abuse treatment program provided by a
 1756 treatment resource licensed pursuant to chapter 397 or by a
 1757 hospital licensed pursuant to chapter 395, as specified by the
 1758 court. In addition, the court may refer the offender to a
 1759 licensed agency for substance abuse evaluation and, if
 1760 appropriate, substance abuse treatment subject to the ability of
 1761 the offender to pay for such evaluation and treatment. If such
 1762 referral is made, the offender must comply and must pay for the
 1763 reasonable cost of the evaluation and treatment.

1764 3. Perform at least 200 hours of public service.

1765 4. Submit to routine and random drug testing which may be
 1766 conducted during the probationary period, with the reasonable
 1767 costs thereof borne by the offender.

1768 5. Participate, at his or her own expense, in an
 1769 appropriate self-help group, such as Narcotics Anonymous,
 1770 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1771 (c) If the person has been previously convicted of two
 1772 felony violations of s. 893.13(2)(a)1. or (5)(a), adjudication
 1773 may not be withheld and the offender may be placed on probation
 1774 for not less than 36 months, as a condition of which the court
 1775 shall require the offender to reside at a community residential
 1776 drug punishment center for 360 days. The offender must comply

1777 with all rules and regulations of the center and must pay a fee
1778 for the costs of room and board and residential supervision.
1779 Placement of an offender into a community residential drug
1780 punishment center is subject to budgetary considerations and
1781 availability of bed space. If the court requires the offender to
1782 reside at a community residential drug punishment center, the
1783 court shall also require the offender to comply with one or more
1784 of the other following terms and conditions:

1785 1. Pay a fine of not less than \$1,500 nor more than
1786 \$10,000 pursuant to s. 775.083(1)(c).

1787 2. Enter, regularly attend, and successfully complete a
1788 substance abuse education program of at least 40 hours or a
1789 prescribed substance abuse treatment program provided by a
1790 treatment resource licensed pursuant to chapter 397 or by a
1791 hospital licensed pursuant to chapter 395, as specified by the
1792 court. In addition, the court may refer the offender to a
1793 licensed agency for substance abuse evaluation and, if
1794 appropriate, substance abuse treatment subject to the ability of
1795 the offender to pay for such evaluation and treatment. If such
1796 referral is made, the offender must comply and must pay for the
1797 reasonable cost of the evaluation and treatment.

1798 3. Perform at least 300 hours of public service.

1799 4. Submit to routine and random drug testing which may be
1800 conducted during the probationary period, with the reasonable
1801 costs thereof borne by the offender.

1802 5. Participate, at his or her own expense, in an
1803 appropriate self-help group, such as Narcotics Anonymous,
1804 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1805 (d) An offender who violates probation imposed pursuant to
1806 this section shall be sentenced in accordance with s. 921.002.

1807 (2) On or after October 1, 1993, any person who violates
1808 s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a) may, in the
1809 discretion of the trial court, be required to successfully
1810 complete a term of probation in lieu of serving a term of
1811 imprisonment as required or authorized by s. 775.084, former s.
1812 921.001, or s. 921.002, as follows:

1813 (a) If the person has not previously been convicted of
1814 violating s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a),
1815 adjudication may be withheld and the offender shall be placed on
1816 probation for not less than 12 months, as a condition of which
1817 the court may require the offender to comply with one or more of
1818 the following terms and conditions:

1819 1. Pay a fine of not less than \$250 nor more than \$5,000
1820 pursuant to s. 775.083(1)(c).

1821 2. Enter, regularly attend, and successfully complete a
1822 substance abuse education program of at least 40 hours or a
1823 prescribed substance abuse treatment program provided by a
1824 treatment resource licensed pursuant to chapter 397 or by a
1825 hospital licensed pursuant to chapter 395, as specified by the
1826 court. In addition, the court may refer the offender to a
1827 licensed agency for substance abuse evaluation and, if
1828 appropriate, substance abuse treatment subject to the ability of
1829 the offender to pay for such evaluation and treatment. If such
1830 referral is made, the offender must comply and must pay for the
1831 reasonable cost of the evaluation and treatment.

1832 3. Perform at least 50 hours of public service.

1833 | 4. Submit to routine and random drug testing which may be
 1834 | conducted during the probationary period, with the reasonable
 1835 | costs thereof borne by the offender.

1836 | 5. Participate, at his or her own expense, in an
 1837 | appropriate self-help group, such as Narcotics Anonymous,
 1838 | Alcoholics Anonymous, or Cocaine Anonymous, if available.

1839 | (b) If the person has been previously convicted of one
 1840 | felony violation of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or
 1841 | (6)(a), adjudication may not be withheld and the offender may be
 1842 | placed on probation for not less than 18 months, as a condition
 1843 | of which the court shall require the offender to reside at a
 1844 | community residential drug punishment center for 90 days. The
 1845 | offender must comply with all rules and regulations of the
 1846 | center and must pay a fee for the costs of room and board and
 1847 | residential supervision. Placement of an offender into a
 1848 | community residential drug punishment center is subject to
 1849 | budgetary considerations and availability of bed space. If the
 1850 | court requires the offender to reside at a community residential
 1851 | drug punishment center, the court shall also require the
 1852 | offender to comply with one or more of the other following terms
 1853 | and conditions:

1854 | 1. Pay a fine of not less than \$500 nor more than \$5,000
 1855 | pursuant to s. 775.083(1)(c).

1856 | 2. Enter, regularly attend, and successfully complete a
 1857 | substance abuse intervention program of a least 80 hours
 1858 | provided by a treatment resource licensed pursuant to chapter
 1859 | 397 or by a hospital licensed pursuant to chapter 395, as
 1860 | specified by the court. In addition, the court may refer the

1861 offender to a licensed agency for substance abuse evaluation
1862 and, if appropriate, substance abuse treatment subject to the
1863 ability of the offender to pay for such evaluation and
1864 treatment. If such referral is made, the offender must comply
1865 and must pay for the reasonable cost of the evaluation and
1866 treatment.

1867 3. Perform at least 100 hours of public service.

1868 4. Submit to routine and random drug testing which may be
1869 conducted during the probationary period, with the reasonable
1870 costs thereof borne by the offender.

1871 5. Participate, at his or her own expense, in an
1872 appropriate self-help group, such as Narcotics Anonymous,
1873 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1874 (c) If the person has been previously convicted of two
1875 felony violations of s. 893.13(2)(a)2., (5)(b), or (6)(a),
1876 adjudication may not be withheld and the offender may be placed
1877 on probation for not less than 24 months, as a condition of
1878 which the court shall require the offender to reside at a
1879 community residential drug punishment center for 120 days. The
1880 offender must comply with all rules and regulations of the
1881 center and must pay a fee for the costs of room and board and
1882 residential supervision. Placement of an offender into a
1883 community residential drug punishment center is subject to
1884 budgetary considerations and availability of bed space. If the
1885 court requires the offender to reside at a community residential
1886 drug punishment center, the court shall also require the
1887 offender to comply with one or more of the other following terms
1888 and conditions:

1889 | 1. Pay a fine of not less than \$1,000 nor more than \$5,000
 1890 | pursuant to s. 775.083(1)(c).

1891 | 2. Enter, regularly attend, and successfully complete a
 1892 | prescribed substance abuse treatment program provided by a
 1893 | treatment resource licensed pursuant to chapter 397 or by a
 1894 | hospital licensed pursuant to chapter 395, as specified by the
 1895 | court. In addition, the court may refer the offender to a
 1896 | licensed agency for substance abuse evaluation and, if
 1897 | appropriate, substance abuse treatment subject to the ability of
 1898 | the offender to pay for such evaluation and treatment. If such
 1899 | referral is made, the offender must comply and must pay for the
 1900 | reasonable cost of the evaluation and treatment.

1901 | 3. Perform at least 150 hours of public service.

1902 | 4. Submit to routine and random drug testing which may be
 1903 | conducted during the probationary period, with the reasonable
 1904 | costs thereof borne by the offender.

1905 | 5. Participate, at his or her own expense, in an
 1906 | appropriate self-help group, such as Narcotics Anonymous,
 1907 | Alcoholics Anonymous, or Cocaine Anonymous, if available.

1908 | (d) If the person has been previously convicted of three
 1909 | felony violations of s. 893.13(2)(a)2., (5)(b), or (6)(a),
 1910 | adjudication may not be withheld and the offender may be placed
 1911 | on probation for not less than 30 months, as a condition of
 1912 | which the court shall require the offender to reside at a
 1913 | community residential drug punishment center for 200 days. The
 1914 | offender must comply with all rules and regulations of the
 1915 | center and must pay a fee for the costs of room and board and
 1916 | residential supervision. Placement of an offender into a

1917 community residential drug punishment center is subject to
1918 budgetary considerations and availability of bed space. If the
1919 court requires the offender to reside at a community residential
1920 drug punishment center, the court shall also require the
1921 offender to comply with one or more of the other following terms
1922 and conditions:

1923 1. Pay a fine of not less than \$1,500 nor more than \$5,000
1924 pursuant to s. 775.083(1)(c).

1925 2. Enter, regularly attend, and successfully complete a
1926 prescribed substance abuse treatment program provided by a
1927 treatment resource licensed pursuant to chapter 397 or by a
1928 hospital licensed pursuant to chapter 395, as specified by the
1929 court. In addition, the court may refer the offender to a
1930 licensed agency for substance abuse evaluation and, if
1931 appropriate, substance abuse treatment subject to the ability of
1932 the offender to pay for such evaluation and treatment. If such
1933 referral is made, the offender must comply and must pay for the
1934 reasonable cost of the evaluation and treatment.

1935 3. Perform at least 200 hours of public service.

1936 4. Submit to routine and random drug testing which may be
1937 conducted during the probationary period, with the reasonable
1938 costs thereof borne by the offender.

1939 5. Participate, at his or her own expense, in an
1940 appropriate self-help group, such as Narcotics Anonymous,
1941 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1942 (e) If the person has been previously convicted of four
1943 felony violations of s. 893.13(2)(a)2., (5)(b), or (6)(a),
1944 adjudication may not be withheld and the offender may be placed

1945 on probation for not less than 36 months, as a condition of
1946 which the court shall require the offender to reside at a
1947 community residential drug punishment center for 360 days. The
1948 offender must comply with all rules and regulations of the
1949 center and must pay a fee for the costs of room and board and
1950 residential supervision. Placement of an offender into a
1951 community residential drug punishment center is subject to
1952 budgetary considerations and availability of bed space. If the
1953 court requires the offender to reside at a community residential
1954 drug punishment center, the court shall also require the
1955 offender to comply with one or more of the other following terms
1956 and conditions:

1957 1. Pay a fine of not less than \$2,000 nor more than \$5,000
1958 pursuant to s. 775.083(1)(c).

1959 2. Enter, regularly attend, and successfully complete a
1960 prescribed substance abuse treatment program provided by a
1961 treatment resource licensed pursuant to chapter 397 or by a
1962 hospital licensed pursuant to chapter 395, as specified by the
1963 court. In addition, the court may refer the offender to a
1964 licensed agency for substance abuse evaluation and, if
1965 appropriate, substance abuse treatment subject to the ability of
1966 the offender to pay for such evaluation and treatment. If such
1967 referral is made, the offender must comply and must pay for the
1968 reasonable cost of the evaluation and treatment.

1969 3. Perform at least 250 hours of public service.

1970 4. Submit to routine and random drug testing which may be
1971 conducted during the probationary period, with the reasonable
1972 costs thereof borne by the offender.

1973 | 5. Participate, at his or her own expense, in an
1974 | appropriate self-help group, such as Narcotics Anonymous,
1975 | Alcoholics Anonymous, or Cocaine Anonymous, if available.

1976 | (f) An offender who violates probation imposed pursuant to
1977 | this section shall be sentenced in accordance with s. 921.002.

1978 | Section 24. This act shall take effect July 1, 2004, and
1979 | shall apply to offenses committed on or after that date.