

1                   A bill to be entitled  
2       An act relating to controlled substances; amending s.  
3       893.033, F.S.; revising the definition of "listed  
4       precursor chemical" to include benzaldehyde, hydriodic  
5       acid, and nitroethane, and to remove anhydrous ammonia and  
6       benzyl chloride; revising the definition of "listed  
7       essential chemical" 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 creating s. 893.1495, F.S.; limiting sales of products  
48 containing more than a specified amount of ephedrine or  
49 related compounds in a single transaction; providing  
50 restrictions on the display of products containing  
51 ephedrine or related compounds; providing an exemption  
52 from liability for a general owner or operator of an  
53 outlet where a sale of products containing ephedrine or  
54 related compounds exceeding the specified amount took  
55 place if specified employee training was provided;  
56 providing that local regulations passed after a specified

57 | date that are more restrictive than this act are  
 58 | superseded; providing for exemption of products from  
 59 | certain provisions if they receive a certain  
 60 | certification; providing criminal penalties; reenacting s.  
 61 | 893.02(12), F.S., relating to the definition of the term  
 62 | "listed chemical," for the purpose of incorporating the  
 63 | amendment to s. 893.033, F.S., in a reference thereto;  
 64 | reenacting ss. 435.07(2), 921.187(1), 938.25, and  
 65 | 948.034(1) and (2), F.S., relating to exemptions from  
 66 | disqualification for certain employment, disposition and  
 67 | sentencing alternatives, the assessment of fees for  
 68 | purposes of funding the Operating Trust Fund of the  
 69 | Department of Law Enforcement, and the terms and  
 70 | conditions of probation, respectively, for the purpose of  
 71 | incorporating the amendment to s. 893.13, F.S., in  
 72 | references thereto; reenacting ss. 311.12(3)(c),  
 73 | 414.095(1), 775.087(2)(a) and (3)(a), 782.04(1)(a),  
 74 | (3)(a), and (4)(a), 893.13(8)(d), 907.041(4)(c),  
 75 | 921.0022(3)(g), (h), and (i), 921.0024(1), 921.142(2),  
 76 | 943.0585, and 943.059, F.S., relating to seaport security  
 77 | standards, eligibility for temporary cash assistance,  
 78 | mandatory sentencing in circumstances involving the  
 79 | possession of use of a weapon, specified offenses that may  
 80 | be charged as murder if death results, prohibited acts by  
 81 | prescribing practitioners, circumstances in which the  
 82 | court may order pretrial detention, the offense severity  
 83 | ranking chart of the Criminal Punishment Code, worksheet  
 84 | computations and scoresheets under the Criminal Punishment

85 Code, sentencing in capital drug trafficking cases,  
 86 limitations on circumstances in which a criminal history  
 87 record may be expunged, and limitations on circumstances  
 88 in which a criminal history record may be sealed,  
 89 respectively, for the purpose of incorporating the  
 90 amendment to s. 895.135, F.S., in references thereto;  
 91 reenacting ss. 397.451(4)(b) and (6), 772.12(2)(a),  
 92 893.1351(1), and 903.133, F.S., relating to background  
 93 checks of service provider personnel, the Drug Dealer  
 94 Liability Act, the prohibition against leasing or renting  
 95 for the purpose of trafficking in a controlled substance,  
 96 and the limitation of admission to bail, respectively, for  
 97 the purpose of incorporating the amendments to ss. 893.13  
 98 and 893.135, F.S., in references thereto; providing  
 99 applicability; providing an effective date.

100

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

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103 Section 1. Section 893.033, Florida Statutes, is amended  
 104 to read:

105 893.033 Listed chemicals.--The chemicals listed in this  
 106 section are included by whatever official, common, usual,  
 107 chemical, or trade name designated.

108 (1) PRECURSOR CHEMICALS.--The term "listed precursor  
 109 chemical" means a chemical that may be used in manufacturing a  
 110 controlled substance in violation of this chapter and is  
 111 critical to the creation of the controlled substance, and such  
 112 term includes any salt, optical isomer, or salt of an optical

113 isomer, whenever the existence of such salt, optical isomer, or  
 114 salt of optical isomer is possible within the specific chemical  
 115 designation. The following are "listed precursor chemicals":

- 116 ~~(a) Anhydrous ammonia.~~
- 117 (a)~~(b)~~ Anthranilic acid.
- 118 (b) Benzaldehyde.
- 119 ~~(c) Benzyl chloride.~~
- 120 (c)~~(d)~~ Benzyl cyanide.
- 121 (d)~~(e)~~ Chloroephedrine.
- 122 (e)~~(f)~~ Chloropseudoephedrine.
- 123 (f)~~(g)~~ Ephedrine.
- 124 (g)~~(h)~~ Ergonovine.
- 125 (h)~~(i)~~ Ergotamine.
- 126 (i) Hydriodic acid.
- 127 (j) Ethylamine.
- 128 (k) Isosafrole.
- 129 (l) Methylamine.
- 130 (m) 3, 4-Methylenedioxyphenyl-2-propanone.
- 131 (n) N-acetylanthranilic acid.
- 132 (o) N-ethylephedrine.
- 133 (p) N-ethylpseudoephedrine.
- 134 (q) N-methylephedrine.
- 135 (r) N-methylpseudoephedrine.
- 136 (s) Nitroethane.
- 137 (t)~~(s)~~ Norpseudoephedrine.
- 138 (u)~~(t)~~ Phenylacetic acid.
- 139 (v)~~(u)~~ Phenylpropanolamine.
- 140 (w)~~(v)~~ Piperidine.

- 141        ~~(x)(w)~~ Piperonal.
- 142        ~~(y)(x)~~ Propionic anhydride.
- 143        ~~(z)(y)~~ Pseudoephedrine.
- 144        ~~(aa)(z)~~ Safrole.

145        (2) ESSENTIAL CHEMICALS.--The term "listed essential  
 146 chemical" means a chemical that may be used as a solvent,  
 147 reagent, or catalyst in manufacturing a controlled substance in  
 148 violation of this chapter. The following are "listed essential  
 149 chemicals":

- 150        (a) Acetic anhydride.
- 151        (b) Acetone.
- 152        (c) Anhydrous ammonia.
- 153        (d) Benzyl chloride.
- 154        ~~(e)(e)~~ 2-Butanone.
- 155        ~~(f)(d)~~ Ethyl ether.
- 156        (g) Hydrochloric gas.
- 157        ~~(h)(e)~~ Hydriodic acid.
- 158        (i) Iodine.
- 159        ~~(j)(f)~~ Potassium permanganate.
- 160        ~~(k)(g)~~ Toluene.

161        Section 2. Paragraphs (g) and (h) are added to subsection  
 162 (1) of section 893.13, Florida Statutes, paragraphs (a) and (c)  
 163 of subsection (7) of said section are amended, subsection (12)  
 164 is added to said section, and paragraph (d) of subsection (8) of  
 165 said section is reenacted for purpose of incorporating the  
 166 amendment to section 893.135, Florida Statutes, in a reference  
 167 thereto, to read:

168        893.13 Prohibited acts; penalties.--

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(1)  
(g) Except as authorized by this chapter, it is unlawful for any person to manufacture methamphetamine or phencyclidine, or possess any listed chemical as defined in s. 893.033 in violation of s. 893.149 and with intent to manufacture methamphetamine or phencyclidine. If any person violates this paragraph and:

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

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

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

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

197 s. 775.082, s. 775.083, or s. 775.084.

198 2. A controlled substance named or described in s.  
 199 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 200 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 201 the second degree, punishable as provided in s. 775.082, s.  
 202 775.083, or s. 775.084.

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

204 1. To distribute or dispense a controlled substance in  
 205 violation of this chapter.

206 2. To refuse or fail to make, keep, or furnish any record,  
 207 notification, order form, statement, invoice, or information  
 208 required under this chapter.

209 3. To refuse an entry into any premises for any inspection  
 210 or to refuse to allow any inspection authorized by this chapter.

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

214 5. To keep or maintain any store, shop, warehouse,  
 215 dwelling, building, vehicle, boat, aircraft, or other structure  
 216 or place which is resorted to by persons using controlled  
 217 substances in violation of this chapter for the purpose of using  
 218 these substances, or which is used for keeping or selling them  
 219 in violation of this chapter.

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



224           7. To possess a prescription form which has not been  
 225 completed and signed by the practitioner whose name appears  
 226 printed thereon, unless the person is that practitioner, is an  
 227 agent or employee of that practitioner, is a pharmacist, or is a  
 228 supplier of prescription forms who is authorized by that  
 229 practitioner to possess those forms.

230           8. To withhold information from a practitioner from whom  
 231 the person seeks to obtain a controlled substance or a  
 232 prescription for a controlled substance that the person making  
 233 the request has received a controlled substance or a  
 234 prescription for a controlled substance of like therapeutic use  
 235 from another practitioner within the previous 30 days.

236           9. To acquire or obtain, or attempt to acquire or obtain,  
 237 possession of a controlled substance by misrepresentation,  
 238 fraud, forgery, deception, or subterfuge.

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

241           11. To furnish false or fraudulent material information  
 242 in, or omit any material information from, any report or other  
 243 document required to be kept or filed under this chapter or any  
 244 record required to be kept by this chapter.

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

249           (c) Any person who violates the provisions of  
 250 subparagraphs (a)8.-12. ~~(a)8.-11.~~ commits a felony of the third

251 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 252 775.084.

253 (8)

254 (d) Notwithstanding paragraph (c), if a prescribing  
 255 practitioner has violated paragraph (a) and received \$1,000 or  
 256 more in payment for writing one or more prescriptions or, in the  
 257 case of a prescription written for a controlled substance  
 258 described in s. 893.135, has written one or more prescriptions  
 259 for a quantity of a controlled substance which, individually or  
 260 in the aggregate, meets the threshold for the offense of  
 261 trafficking in a controlled substance under s. 893.15, the  
 262 violation is reclassified as a felony of the second degree and  
 263 ranked in level 4 of the Criminal Punishment Code.

264 (12) If a person violates any provision of this chapter  
 265 and the violation results in a serious injury to a state, local,  
 266 or federal law enforcement officer, the person commits a felony  
 267 of the third degree, punishable as provided in s. 775.082, s.  
 268 775.083, or s. 775.084. If the injury sustained results in death  
 269 or great bodily harm, the person commits a felony of the second  
 270 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 271 775.084.

272 Section 3. Paragraph (f) of subsection (1) of section  
 273 893.135, Florida Statutes, is amended to read:

274 893.135 Trafficking; mandatory sentences; suspension or  
 275 reduction of sentences; conspiracy to engage in trafficking.--

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

278 (f)1. Any person who knowingly sells, purchases,  
 279 manufactures, delivers, or brings into this state, or who is  
 280 knowingly in actual or constructive possession of, 14 grams or  
 281 more of amphetamine, as described in s. 893.03(2)(c)2., or  
 282 methamphetamine, as described in s. 893.03(2)(c)4., or of any  
 283 mixture containing amphetamine or methamphetamine, or  
 284 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine  
 285 in conjunction with other chemicals and equipment utilized in  
 286 the manufacture of amphetamine or methamphetamine, commits a  
 287 felony of the first degree, which felony shall be known as  
 288 "trafficking in amphetamine," punishable as provided in s.  
 289 775.082, s. 775.083, or s. 775.084. If the quantity involved:  
 290 a. Is 14 grams or more, but less than 28 grams, such  
 291 person shall be sentenced to a mandatory minimum term of  
 292 imprisonment of 3 years, and the defendant shall be ordered to  
 293 pay a fine of \$50,000.  
 294 b. Is 28 grams or more, but less than 200 grams, such  
 295 person shall be sentenced to a mandatory minimum term of  
 296 imprisonment of 7 years, and the defendant shall be ordered to  
 297 pay a fine of \$100,000.  
 298 c. Is 200 grams or more, such person shall be sentenced to  
 299 a mandatory minimum term of imprisonment of 15 calendar years  
 300 and pay a fine of \$250,000.  
 301 2. Any person who knowingly manufactures or brings into  
 302 this state 400 grams or more of amphetamine, as described in s.  
 303 893.03(2)(c)2., or methamphetamine, as described in s.  
 304 893.03(2)(c)4., or of any mixture containing amphetamine or  
 305 methamphetamine, or phenylacetone, phenylacetic acid,

306 pseudoephedrine, or ephedrine in conjunction with other  
 307 chemicals and equipment used in the manufacture of amphetamine  
 308 or methamphetamine, and who knows that the probable result of  
 309 such manufacture or importation would be the death of any person  
 310 commits capital manufacture or importation of amphetamine, a  
 311 capital felony punishable as provided in ss. 775.082 and  
 312 921.142. Any person sentenced for a capital felony under this  
 313 paragraph shall also be sentenced to pay the maximum fine  
 314 provided under subparagraph 1.

315 Section 4. Section 893.149, Florida Statutes, is amended  
 316 to read:

317 893.149 Unlawful possession of listed chemical.--

318 (1) It is unlawful for any person to knowingly or  
 319 intentionally:

320 (a) Possess a listed chemical with the intent to  
 321 unlawfully manufacture a controlled substance;

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

325 (2) Any person who violates this section commits ~~is guilty~~  
 326 ~~of~~ a felony of the second degree, punishable as provided in s.  
 327 775.082, s. 775.083, or s. 775.084.

328 (3) This section does not apply to a public employee or  
 329 private contractor authorized to clean up or dispose of  
 330 hazardous waste or toxic substances resulting from the  
 331 prohibited activities listed in s. 893.13(1)(g).

332 (4) Any damages arising out of the unlawful possession of,  
 333 storage of, or tampering with a listed chemical, as defined in

334 s. 893.033, shall be the sole responsibility of the person or  
 335 persons unlawfully possessing, storing, or tampering with the  
 336 listed chemical. In no case shall liability for damages arising  
 337 out of the unlawful possession of, storage of, or tampering with  
 338 a listed chemical extend to the lawful owner, installer,  
 339 maintainer, designer, manufacturer, possessor, or seller of the  
 340 listed chemical, unless such damages arise out of the acts or  
 341 omissions of the owner, installer, maintainer, designer,  
 342 manufacturer, possessor, or seller which constitute negligent  
 343 misconduct or failure to abide by the laws regarding the  
 344 possession or storage of a listed chemical.

345 Section 5. Section 893.1495, Florida Statutes, is created  
 346 to read:

347 893.1495 Sale of ephedrine and related compounds.--

348 (1) No person shall deliver in any single over-the-counter  
 349 sale any number of packages of any drug containing a sole active  
 350 ingredient that he or she knows to contain a combined total of  
 351 more than 9 base grams of ephedrine, pseudoephedrine,  
 352 phenylpropanolamine, or any of their salts, optical isomers, or  
 353 salts of optical isomers, or more than three packages in any  
 354 single over-the-counter sale, regardless of weight, containing  
 355 any such sole active ingredient.

356 (2) Packages of any drug having a sole active ingredient  
 357 of ephedrine, pseudoephedrine, phenylpropanolamine, or any of  
 358 their salts or optical isomers shall be displayed and offered  
 359 for sale only behind a checkout counter where the public is not  
 360 permitted.

361       (3) Any person who is considered the general owner or  
362 operator of the outlet where ephedrine, pseudoephedrine, or  
363 phenylpropanolamine products are available for sale who violates  
364 subsection (1) shall not be penalized under this section if such  
365 person documents that an employee training program was in place  
366 to provide the employee with information on the state and  
367 federal regulations regarding ephedrine, pseudoephedrine, or  
368 phenylpropanolamine.

369       (4) This section shall supersede any municipal ordinance  
370 or regulation passed on or after July 1, 2005, to the extent  
371 that such ordinance or regulation is more restrictive than the  
372 provisions of this section.

373       (5) This section shall not apply to any products that the  
374 Department of Health, upon application of a manufacturer,  
375 exempts by rule from this section because the product has been  
376 formulated in such a way as to effectively prevent the  
377 conversion of the active ingredient into methamphetamine.

378       (6) An individual who violates any provision of this  
379 section commits a misdemeanor of the first degree, punishable as  
380 provided in s. 775.082 or s. 775.083 for a first offense and for  
381 a second or subsequent offense commits a felony of the third  
382 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
383 775.084.

384       Section 6. For the purpose of incorporating the amendment  
385 to section 893.135, Florida Statutes, in a reference thereto,  
386 paragraph (c) of subsection (3) of section 311.12, Florida  
387 Statutes, is reenacted to read:

388       311.12 Seaport security standards.--

389 (3)

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

393 1. Any person who has within the past 7 years been  
394 convicted, regardless of whether adjudication was withheld, for  
395 a forcible felony as defined in s. 776.08; an act of terrorism  
396 as defined in s. 775.30; planting of a hoax bomb as provided in  
397 s. 790.165; any violation involving the manufacture, possession,  
398 sale, delivery, display, use, or attempted or threatened use of  
399 a weapon of mass destruction or hoax weapon of mass destruction  
400 as provided in s. 790.166; dealing in stolen property; any  
401 violation of s. 893.135; any violation involving the sale,  
402 manufacturing, delivery, or possession with intent to sell,  
403 manufacture, or deliver a controlled substance; burglary;  
404 robbery; any felony violation of s. 812.014; any violation of s.  
405 790.07; any crime an element of which includes use or possession  
406 of a firearm; any conviction for any similar offenses under the  
407 laws of another jurisdiction; or conviction for conspiracy to  
408 commit any of the listed offenses shall not be qualified for  
409 initial employment within or regular access to a seaport or  
410 restricted access area; and

411 2. Any person who has at any time been convicted for any  
412 of the listed offenses shall not be qualified for initial  
413 employment within or authorized regular access to a seaport or  
414 restricted access area unless, after release from incarceration  
415 and any supervision imposed as a sentence, the person remained  
416 free from a subsequent conviction, regardless of whether

417 adjudication was withheld, for any of the listed offenses for a  
 418 period of at least 7 years prior to the employment or access  
 419 date under consideration.

420 Section 7. For the purpose of incorporating the amendment  
 421 to sections 893.13 and 893.135, Florida Statutes, in references  
 422 thereto, paragraph (b) of subsection (4) and subsection (6) of  
 423 section 397.451, Florida Statutes, are reenacted to read:

424 397.451 Background checks of service provider personnel.--

425 (4) EXEMPTIONS FROM DISQUALIFICATION.--

426 (b) Since rehabilitated substance abuse impaired persons  
 427 are effective in the successful treatment and rehabilitation of  
 428 substance abuse impaired adolescents, for service providers  
 429 which treat adolescents 13 years of age and older, service  
 430 provider personnel whose background checks indicate crimes under  
 431 s. 817.563, s. 893.13, or s. 893.147 may be exempted from  
 432 disqualification from employment pursuant to this paragraph.

433 (6) DISQUALIFICATION FROM RECEIVING STATE FUNDS.--State  
 434 funds may not be disseminated to any service provider owned or  
 435 operated by an owner, director, or chief financial officer who  
 436 has been convicted of, has entered a plea of guilty or nolo  
 437 contendere to, or has had adjudication withheld for, a violation  
 438 of s. 893.135 pertaining to trafficking in controlled  
 439 substances, or a violation of the law of another state, the  
 440 District of Columbia, the United States or any possession or  
 441 territory thereof, or any foreign jurisdiction which is  
 442 substantially similar in elements and penalties to a trafficking  
 443 offense in this state, unless the owner's or director's civil  
 444 rights have been restored.



445 Section 8. For the purpose of incorporating the amendment  
 446 to section 893.135, Florida Statutes, in a reference thereto,  
 447 subsection (1) of section 414.095, Florida Statutes, is  
 448 reenacted to read:

449 414.095 Determining eligibility for temporary cash  
 450 assistance.--

451 (1) ELIGIBILITY.--An applicant must meet eligibility  
 452 requirements of this section before receiving services or  
 453 temporary cash assistance under this chapter, except that an  
 454 applicant shall be required to register for work and engage in  
 455 work activities in accordance with s. 445.024, as designated by  
 456 the regional workforce board, and may receive support services  
 457 or child care assistance in conjunction with such requirement.  
 458 The department shall make a determination of eligibility based  
 459 on the criteria listed in this chapter. The department shall  
 460 monitor continued eligibility for temporary cash assistance  
 461 through periodic reviews consistent with the food stamp  
 462 eligibility process. Benefits shall not be denied to an  
 463 individual solely based on a felony drug conviction, unless the  
 464 conviction is for trafficking pursuant to s. 893.135. To be  
 465 eligible under this section, an individual convicted of a drug  
 466 felony must be satisfactorily meeting the requirements of the  
 467 temporary cash assistance program, including all substance abuse  
 468 treatment requirements. Within the limits specified in this  
 469 chapter, the state opts out of the provision of Pub. L. No. 104-  
 470 193, s. 115, that eliminates eligibility for temporary cash  
 471 assistance and food stamps for any individual convicted of a  
 472 controlled substance felony.

473 Section 9. For the purpose of incorporating the amendment  
 474 to section 893.13, Florida Statutes, in a reference thereto,  
 475 subsection (2) of section 435.07, Florida Statutes, is reenacted  
 476 to read:

477 435.07 Exemptions from disqualification.--Unless otherwise  
 478 provided by law, the provisions of this section shall apply to  
 479 exemptions from disqualification.

480 (2) Persons employed by treatment providers who treat  
 481 adolescents 13 years of age and older who are disqualified from  
 482 employment solely because of crimes under s. 817.563, s. 893.13,  
 483 or s. 893.147 may be exempted from disqualification from  
 484 employment pursuant to this section without the 3-year waiting  
 485 period.

486 Section 10. For the purpose of incorporating the amendment  
 487 to sections 893.13 and 893.135, Florida Statutes, in references  
 488 thereto, paragraph (a) of subsection (2) of section 772.12,  
 489 Florida Statutes, is reenacted to read:

490 772.12 Drug Dealer Liability Act.--

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

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

499 1. A violation of s. 893.13, except for a violation of s.  
 500 893.13(2)(a) or (b), (3), (5), (6)(a), (b), or (c), (7); or

501           2. A violation of s. 893.135; and  
 502           Section 11. For the purpose of incorporating the amendment  
 503 to section 893.135, Florida Statutes, in a reference thereto,  
 504 paragraph (a) of subsection (2) and paragraph (a) of subsection  
 505 (3) and of section 775.087, Florida Statutes, are reenacted to  
 506 read:

507           775.087 Possession or use of weapon; aggravated battery;  
 508 felony reclassification; minimum sentence.--

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

- 512           a. Murder;
- 513           b. Sexual battery;
- 514           c. Robbery;
- 515           d. Burglary;
- 516           e. Arson;
- 517           f. Aggravated assault;
- 518           g. Aggravated battery;
- 519           h. Kidnapping;
- 520           i. Escape;
- 521           j. Aircraft piracy;
- 522           k. Aggravated child abuse;
- 523           l. Aggravated abuse of an elderly person or disabled  
 524 adult;
- 525           m. Unlawful throwing, placing, or discharging of a  
 526 destructive device or bomb;
- 527           n. Carjacking;
- 528           o. Home-invasion robbery;

529 p. Aggravated stalking;  
 530 q. Trafficking in cannabis, trafficking in cocaine,  
 531 capital importation of cocaine, trafficking in illegal drugs,  
 532 capital importation of illegal drugs, trafficking in  
 533 phencyclidine, capital importation of phencyclidine, trafficking  
 534 in methaqualone, capital importation of methaqualone,  
 535 trafficking in amphetamine, capital importation of amphetamine,  
 536 trafficking in flunitrazepam, trafficking in gamma-  
 537 hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,  
 538 trafficking in Phenethylamines, or other violation of s.  
 539 893.135(1); or

540 r. Possession of a firearm by a felon  
 541  
 542 and during the commission of the offense, such person actually  
 543 possessed a "firearm" or "destructive device" as those terms are  
 544 defined in s. 790.001, shall be sentenced to a minimum term of  
 545 imprisonment of 10 years, except that a person who is convicted  
 546 for aggravated assault, possession of a firearm by a felon, or  
 547 burglary of a conveyance shall be sentenced to a minimum term of  
 548 imprisonment of 3 years if such person possessed a "firearm" or  
 549 "destructive device" during the commission of the offense.

550 2. Any person who is convicted of a felony or an attempt  
 551 to commit a felony listed in sub-subparagraphs (a)1.a.-q.,  
 552 regardless of whether the use of a weapon is an element of the  
 553 felony, and during the course of the commission of the felony  
 554 such person discharged a "firearm" or "destructive device" as  
 555 defined in s. 790.001 shall be sentenced to a minimum term of  
 556 imprisonment of 20 years.

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

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

- 570           a. Murder;
- 571           b. Sexual battery;
- 572           c. Robbery;
- 573           d. Burglary;
- 574           e. Arson;
- 575           f. Aggravated assault;
- 576           g. Aggravated battery;
- 577           h. Kidnapping;
- 578           i. Escape;
- 579           j. Sale, manufacture, delivery, or intent to sell,  
 580 manufacture, or deliver any controlled substance;
- 581           k. Aircraft piracy;
- 582           l. Aggravated child abuse;
- 583           m. Aggravated abuse of an elderly person or disabled  
 584 adult;

585           n. Unlawful throwing, placing, or discharging of a  
 586 destructive device or bomb;  
 587           o. Carjacking;  
 588           p. Home-invasion robbery;  
 589           q. Aggravated stalking; or  
 590           r. Trafficking in cannabis, trafficking in cocaine,  
 591 capital importation of cocaine, trafficking in illegal drugs,  
 592 capital importation of illegal drugs, trafficking in  
 593 phencyclidine, capital importation of phencyclidine, trafficking  
 594 in methaqualone, capital importation of methaqualone,  
 595 trafficking in amphetamine, capital importation of amphetamine,  
 596 trafficking in flunitrazepam, trafficking in gamma-  
 597 hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,  
 598 trafficking in Phenethylamines, or other violation of s.  
 599 893.135(1);

600  
 601 and during the commission of the offense, such person possessed  
 602 a semiautomatic firearm and its high-capacity detachable box  
 603 magazine or a machine gun as defined in s. 790.001, shall be  
 604 sentenced to a minimum term of imprisonment of 15 years.

605           2. Any person who is convicted of a felony or an attempt  
 606 to commit a felony listed in subparagraph (a)1., regardless of  
 607 whether the use of a weapon is an element of the felony, and  
 608 during the course of the commission of the felony such person  
 609 discharged a semiautomatic firearm and its high-capacity box  
 610 magazine or a "machine gun" as defined in s. 790.001 shall be  
 611 sentenced to a minimum term of imprisonment of 20 years.

612           3. Any person who is convicted of a felony or an attempt  
 613 to commit a felony listed in subparagraph (a)1., regardless of  
 614 whether the use of a weapon is an element of the felony, and  
 615 during the course of the commission of the felony such person  
 616 discharged a semiautomatic firearm and its high-capacity box  
 617 magazine or a "machine gun" as defined in s. 790.001 and, as the  
 618 result of the discharge, death or great bodily harm was  
 619 inflicted upon any person, the convicted person shall be  
 620 sentenced to a minimum term of imprisonment of not less than 25  
 621 years and not more than a term of imprisonment of life in  
 622 prison.

623           Section 12. For the purpose of incorporating the amendment  
 624 to section 893.135, Florida Statutes, in references thereto,  
 625 paragraph (a) of subsection (1), paragraph (a) of subsection  
 626 (3), and paragraph (a) of subsection (4) of section 782.04,  
 627 Florida Statutes, are reenacted to read:

628           782.04 Murder.--

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

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

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

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

635           b. Arson,

636           c. Sexual battery,

637           d. Robbery,

638           e. Burglary,

639           f. Kidnapping,

- 640 g. Escape,
- 641 h. Aggravated child abuse,
- 642 i. Aggravated abuse of an elderly person or disabled
- 643 adult,
- 644 j. Aircraft piracy,
- 645 k. Unlawful throwing, placing, or discharging of a
- 646 destructive device or bomb,
- 647 l. Carjacking,
- 648 m. Home-invasion robbery,
- 649 n. Aggravated stalking,
- 650 o. Murder of another human being,
- 651 p. Resisting an officer with violence to his or her
- 652 person,
- 653 q. Felony that is an act of terrorism or is in furtherance
- 654 of an act of terrorism; or
- 655 3. Which resulted from the unlawful distribution of any
- 656 substance controlled under s. 893.03(1), cocaine as described in
- 657 s. 893.03(2)(a)4., or opium or any synthetic or natural salt,
- 658 compound, derivative, or preparation of opium by a person 18
- 659 years of age or older, when such drug is proven to be the
- 660 proximate cause of the death of the user,
- 661
- 662 is murder in the first degree and constitutes a capital felony,
- 663 punishable as provided in s. 775.082.
- 664 (3) When a person is killed in the perpetration of, or in
- 665 the attempt to perpetrate, any:
- 666 (a) Trafficking offense prohibited by s. 893.135(1),
- 667



668 by a person other than the person engaged in the perpetration of  
 669 or in the attempt to perpetrate such felony, the person  
 670 perpetrating or attempting to perpetrate such felony is guilty  
 671 of murder in the second degree, which constitutes a felony of  
 672 the first degree, punishable by imprisonment for a term of years  
 673 not exceeding life or as provided in s. 775.082, s. 775.083, or  
 674 s. 775.084.

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

679 (a) Trafficking offense prohibited by s. 893.135(1),  
 680  
 681 is murder in the third degree and constitutes a felony of the  
 682 second degree, punishable as provided in s. 775.082, s. 775.083,  
 683 or s. 775.084.

684 Section 13. For the purpose of incorporating the amendment  
 685 to section 893.033, Florida Statutes, in a reference thereto,  
 686 subsection (12) of section 893.02, Florida Statutes, is  
 687 reenacted to read:

688 893.02 Definitions.--The following words and phrases as  
 689 used in this chapter shall have the following meanings, unless  
 690 the context otherwise requires:

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

693 Section 14. For the purpose of incorporating the amendment  
 694 to sections 893.13 and 893.135, Florida Statutes, in references

695 thereto, subsection (1) of section 893.1351, Florida Statutes,  
 696 is reenacted to read:

697 893.1351 Lease or rent for the purpose of trafficking in a  
 698 controlled substance.--

699 (1) A person may not lease or rent any place, structure,  
 700 or part thereof, trailer, or other conveyance, with the  
 701 knowledge that such place, structure, trailer, or conveyance  
 702 will be used for the purpose of trafficking in a controlled  
 703 substance, as provided in s. 893.135, or the sale of a  
 704 controlled substance, as provided in s. 893.13.

705 Section 15. For the purpose of incorporating the amendment  
 706 to sections 893.13 and 893.135, Florida Statutes, in references  
 707 thereto, section 903.133, Florida Statutes, is reenacted to  
 708 read:

709 903.133 Bail on appeal; prohibited for certain felony  
 710 convictions.--Notwithstanding the provisions of s. 903.132, no  
 711 person adjudged guilty of a felony of the first degree for a  
 712 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.  
 713 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a  
 714 violation of s. 794.011(2) or (3), shall be admitted to bail  
 715 pending review either by posttrial motion or appeal.

716 Section 16. For the purpose of incorporating the amendment  
 717 to section 893.135, Florida Statutes, in a reference thereto,  
 718 paragraph (c) of subsection (4) of section 907.041, Florida  
 719 Statutes, is reenacted to read:

720 907.041 Pretrial detention and release.--

721 (4) PRETRIAL DETENTION.--

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

726 1. The defendant has previously violated conditions of  
727 release and that no further conditions of release are reasonably  
728 likely to assure the defendant's appearance at subsequent  
729 proceedings;

730 2. The defendant, with the intent to obstruct the judicial  
731 process, has threatened, intimidated, or injured any victim,  
732 potential witness, juror, or judicial officer, or has attempted  
733 or conspired to do so, and that no condition of release will  
734 reasonably prevent the obstruction of the judicial process;

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

740 4. The defendant is charged with DUI manslaughter, as  
741 defined by s. 316.193, and that there is a substantial  
742 probability that the defendant committed the crime and that the  
743 defendant poses a threat of harm to the community; conditions  
744 that would support a finding by the court pursuant to this  
745 subparagraph that the defendant poses a threat of harm to the  
746 community include, but are not limited to, any of the following:

747 a. The defendant has previously been convicted of any  
748 crime under s. 316.193, or of any crime in any other state or

749 territory of the United States that is substantially similar to  
 750 any crime under s. 316.193;

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

753 c. The defendant has previously been found guilty of, or  
 754 has had adjudication of guilt withheld for, driving while the  
 755 defendant's driver's license was suspended or revoked in  
 756 violation of s. 322.34;

757 5. The defendant poses the threat of harm to the  
 758 community. The court may so conclude, if it finds that the  
 759 defendant is presently charged with a dangerous crime, that  
 760 there is a substantial probability that the defendant committed  
 761 such crime, that the factual circumstances of the crime indicate  
 762 a disregard for the safety of the community, and that there are  
 763 no conditions of release reasonably sufficient to protect the  
 764 community from the risk of physical harm to persons.

765 6. The defendant was on probation, parole, or other  
 766 release pending completion of sentence or on pretrial release  
 767 for a dangerous crime at the time the current offense was  
 768 committed; or

769 7. The defendant has violated one or more conditions of  
 770 pretrial release or bond for the offense currently before the  
 771 court and the violation, in the discretion of the court,  
 772 supports a finding that no conditions of release can reasonably  
 773 protect the community from risk of physical harm to persons or  
 774 assure the presence of the accused at trial.

775 Section 17. For the purpose of incorporating the amendment  
 776 to section 893.135, Florida Statutes, in a reference thereto,

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777 paragraphs (g), (h), and (i) of subsection (3) of section  
 778 921.0022, Florida Statutes, are reenacted to read:  
 779 921.0022 Criminal Punishment Code; offense severity  
 780 ranking chart.--

781 (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.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law

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787	327.35(3)(c)2.	3rd	enforcement officer who is in a patrol vehicle with siren and lights activated.
788	402.319(2)	2nd	Vessel BUI resulting in serious bodily injury.
789	409.920(2)	3rd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
790	456.065(2)	3rd	Medicaid provider fraud.
791			Practicing a health care profession without a license.

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792	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
793	458.327(1)	3rd	Practicing medicine without a license.
794	459.013(1)	3rd	Practicing osteopathic medicine without a license.
795	460.411(1)	3rd	Practicing chiropractic medicine without a license.
796	461.012(1)	3rd	Practicing podiatric medicine without a license.
797	462.17	3rd	Practicing naturopathy without a license.
	463.015(1)	3rd	Practicing optometry

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798			without a license.
	464.016(1)	3rd	Practicing nursing without a license.
799			
	465.015(2)	3rd	Practicing pharmacy without a license.
800			
	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
801			
	467.201	3rd	Practicing midwifery without a license.
802			
	468.366	3rd	Delivering respiratory care services without a license.
803			
	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
804			
	483.901(9)	3rd	Practicing medical physics without a license.



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805

484.013(1)(c)                      3rd                      Preparing or  
dispensing optical  
devices without a  
prescription.

806

484.053                                3rd                      Dispensing hearing  
aids without a  
license.

807

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.

808

560.123(8)(b)1.                      3rd                      Failure to report  
currency or payment  
instruments  
exceeding \$300 but  
less than \$20,000 by  
money transmitter.

809

560.125(5)(a)                      3rd                      Money transmitter

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810	655.50(10)(b)1.	3rd	<p>business by                  unauthorized person,                  currency or payment                  instruments                  exceeding \$300 but                  less than \$20,000.</p>
811	782.051(3)	2nd	<p>Failure to report                  financial                  transactions                  exceeding \$300 but                  less than \$20,000 by                  financial                  institution.</p>
812	782.07(1)	2nd	<p>Attempted felony                  murder of a person                  by a person other                  than the perpetrator                  or the perpetrator                  of an attempted                  felony.</p>
			<p>Killing of a human                  being by the act,                  procurement, or                  culpable negligence                  of another</p>

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813	782.071	2nd	(manslaughter).
814	782.072	2nd	Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
815	784.045(1)(a)1.	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
816	784.045(1)(a)2.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
817	784.045(1)(b)	2nd	Aggravated battery; using deadly weapon.
			Aggravated battery;

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818	784.048(4)	3rd	perpetrator aware victim pregnant.
819	784.048(7)	3rd	Aggravated stalking; violation of injunction or court order.
820	784.07(2)(d)	1st	Aggravated stalking; violation of court order.
821	784.074(1)(a)	1st	Aggravated battery on law enforcement officer.
822	784.08(2)(a)	1st	Aggravated battery on sexually violent predators facility staff.
823	784.081(1)	1st	Aggravated battery on a person 65 years of age or older.
			Aggravated battery on specified official or

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824	784.082(1)	1st	employee. Aggravated battery by detained person on visitor or other detainee.
825	784.083(1)	1st	Aggravated battery on code inspector.
826	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
827	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
828	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
829	790.165(3)	2nd	Possessing, displaying, or threatening to use

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830	790.166(3)	2nd	any hoax bomb while committing or attempting to commit a felony.
831	790.166(4)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
832	796.03	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
833	800.04(5)(c)1.	2nd	Procuring any person under 16 years for prostitution.
			Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.

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834	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.
835	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
836	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
837	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
838	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
839	812.014(2)(a)1.	1st	Property stolen,

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			valued at \$100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
840	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
841	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
842	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
843	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen



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844	812.131(2)(a)	2nd	property. Robbery by sudden snatching.
845	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
846	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
847	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
848	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
849	817.2341(2)(b) & (3)(b)	1st	Making false entries of material fact or

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850	825.102(3)(b)	2nd	false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
851	825.103(2)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
852	827.03(3)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
			Neglect of a child causing great bodily harm, disability, or

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853	827.04(3)	3rd	disfigurement. Impregnation of a child under 16 years of age by person 21 years of age or older.
854	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
855	838.015	2nd	Bribery.
856	838.016	2nd	Unlawful compensation or reward for official behavior.
857	838.021(3)(a)	2nd	Unlawful harm to a public servant.
858	838.22	2nd	Bid tampering.
859	872.06	2nd	Abuse of a dead human body.

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860

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.

861

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

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862	893.13(4)(a)	1st	religious services or a specified business site.
863	893.135(1)(a)1.	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).
864	893.135(1)(b)1.a.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
865	893.135(1)(c)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
866	893.135(1)(d)1.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
			Trafficking in phencyclidine, more

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867	893.135(1)(e)1.	1st	than 28 grams, less than 200 grams.
868	893.135(1)(f)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
869	893.135(1)(g)1.a.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
870	893.135(1)(h)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
871	893.135(1)(j)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
			Trafficking in 1,4-Butanediol, 1 kilogram or more,

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872	893.135(1)(k)2.a.	1st	less than 5 kilograms.
873	896.101(5)(a)	3rd	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
874	896.104(4)(a)1.	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
875			Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
876	316.193(3)(c)3.a.	2nd	(h) LEVEL 8
877			DUI manslaughter.

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878	316.1935(4)(b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
879	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
880	499.0051(7)	1st	Forgery of prescription or legend drug labels.
881	499.0052	1st	Trafficking in contraband legend drugs.
882	560.123(8)(b)2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
882	560.125(5)(b)	2nd	Money transmitter business by unauthorized person, currency or payment



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883	655.50(10)(b)2.	2nd	instruments totaling or exceeding \$20,000, but less than \$100,000.
884	777.03(2)(a)	1st	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
885	782.04(4)	2nd	Accessory after the fact, capital felony.
			Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft

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886	782.051(2)	1st	piracy, or unlawfully discharging bomb.
887	782.071(1)(b)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
888	782.072(2)	1st	Committing vehicular homicide and failing to render aid or give information.
889	790.161(3)	1st	Committing vessel homicide and failing to render aid or give information.
890			Discharging a destructive device which results in bodily harm or property damage.

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891	794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
892	800.04(4)	2nd	Lewd or lascivious battery.
893	806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
894	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
895	810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
895	810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or

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896	812.014(2)(a)2.	1st	\$1,000 or more property damage.
897	812.13(2)(b)	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
898	812.135(2)(c)	1st	Robbery with a weapon.
899	817.568(6)	2nd	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
900	825.102(2)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
901			Aggravated abuse of an elderly person or disabled adult.

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902	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
903	825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
904	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
905	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
905	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.

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906

860.16 1st Aircraft piracy.

907

893.13(1)(b) 1st Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

908

893.13(2)(b) 1st Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

909

893.13(6)(c) 1st Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

910

893.135(1)(a)2. 1st Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.

911

893.135(1)(b)1.b. 1st Trafficking in cocaine, more than

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912	893.135(1)(c)1.b.	1st	200 grams, less than 400 grams.
913	893.135(1)(d)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
914	893.135(1)(e)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
915	893.135(1)(f)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
916	893.135(1)(g)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
			Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.

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917	893.135(1)(h)1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
918	893.135(1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
919	893.135(1)(k)2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
920	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
921	895.03(2)	1st	Acquire or maintain through racketeering activity any



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922	895.03(3)	1st	interest in or control of any enterprise or real property.
923	896.101(5)(b)	2nd	Conduct or participate in any enterprise through pattern of racketeering activity.
924	896.104(4)(a)2.	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
			Structuring transactions to evade reporting or registration requirements, financial transactions totaling or

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930

		exceeding \$20,000 but less than \$100,000.
		(i) LEVEL 9
316.193(3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
499.0053	1st	Sale or purchase of contraband legend drugs resulting in great bodily harm.
560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.

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931	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
932	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
933	775.0844	1st	Aggravated white collar crime.
934	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
934	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other

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935	782.051(1)	1st	<p>specified felonies.</p> <p>Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).</p>
936	782.07(2)	1st	<p>Aggravated manslaughter of an elderly person or disabled adult.</p>
937	787.01(1)(a)1.	1st,PBL	<p>Kidnapping; hold for ransom or reward or as a shield or hostage.</p>
938	787.01(1)(a)2.	1st,PBL	<p>Kidnapping with intent to commit or facilitate commission of any felony.</p>
939	787.01(1)(a)4.	1st,PBL	<p>Kidnapping with intent to interfere</p>

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940	787.02(3)(a)	1st	with performance of any governmental or political function.
941	790.161	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
942	790.166(2)	1st, PBL	Attempted capital destructive device offense.
943	794.011(2)	1st	Possessing, selling, using, or attempting to use a weapon of mass destruction.
			Attempted sexual battery; victim less than 12 years of age.

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<p>944</p> <p>794.011(2)                      Life</p>	<p>Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.</p>
<p>945</p> <p>794.011(4)                      1st</p>	<p>Sexual battery; victim 12 years or older, certain circumstances.</p>
<p>946</p> <p>794.011(8)(b)                  1st</p>	<p>Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.</p>
<p>947</p> <p>800.04(5)(b)                  1st</p>	<p>Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.</p>
<p>948</p> <p>812.13(2)(a)                  1st, PBL</p>	<p>Robbery with firearm</p>

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949	812.133(2)(a)	1st,PBL	or other deadly weapon.
950	812.135(2)(b)	1st	Carjacking; firearm or other deadly weapon.
951	817.568(7)	2nd,PBL	Home-invasion robbery with weapon.
952	827.03(2)	1st	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.
953	847.0145(1)	1st	Aggravated child abuse.
			Selling, or otherwise transferring custody or control, of a

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954	847.0145(2)	1st	<p>minor.</p> <p>Purchasing, or otherwise obtaining custody or control, of a minor.</p>
955	859.01	1st	<p>Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.</p>
956	893.135	1st	<p>Attempted capital trafficking offense.</p>
957	893.135(1)(a)3.	1st	<p>Trafficking in cannabis, more than 10,000 lbs.</p>
958	893.135(1)(b)1.c.	1st	<p>Trafficking in cocaine, more than</p>



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959	893.135(1)(c)1.c.	1st	400 grams, less than 150 kilograms.
960	893.135(1)(d)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
961	893.135(1)(e)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
962	893.135(1)(f)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
963	893.135(1)(g)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
964	893.135(1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
964	893.135(1)(i)1.c.	1st	Trafficking in 1,4- Butanediol, 10 kilograms or more.

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965

893.135(1)(k)2.c. 1st Trafficking in  
Phenethylamines, 400  
grams or more.

966

896.101(5)(c) 1st Money laundering,  
financial  
instruments totaling  
or exceeding  
\$100,000.

967

896.104(4)(a)3. 1st Structuring  
transactions to  
evade reporting or  
registration  
requirements,  
financial  
transactions  
totaling or  
exceeding \$100,000.

968

969 Section 18. For the purpose of incorporating the amendment  
970 to section 893.135, Florida Statutes, in a reference thereto,  
971 subsection (1) of section 921.0024, Florida Statutes, is  
972 reenacted to read:

973 921.0024 Criminal Punishment Code; worksheet computations;  
974 scoresheets.--

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

977  
 978 FLORIDA CRIMINAL PUNISHMENT CODE  
 979 WORKSHEET

980  
 981 OFFENSE SCORE

982  
 983  
 984 Primary Offense

985

986 Level	Sentence Points		Total
987 10	116	=	_____
988 9	92	=	_____
989 8	74	=	_____
990 7	56	=	_____
991 6	36	=	_____
992 5	28	=	_____
993 4	22	=	_____
3	16	=	_____

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2	10		=		<u>        </u>
1	4		=		<u>        </u>
				Total	<u>        </u>

Additional Offenses

Level	Sentence Points		Counts		Total
10	58	x	<u>        </u>	=	<u>        </u>
9	46	x	<u>        </u>	=	<u>        </u>
8	37	x	<u>        </u>	=	<u>        </u>
7	28	x	<u>        </u>	=	<u>        </u>
6	18	x	<u>        </u>	=	<u>        </u>
5	5.4	x	<u>        </u>	=	<u>        </u>
4	3.6	x	<u>        </u>	=	<u>        </u>
3	2.4	x	<u>        </u>	=	<u>        </u>

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1009	2	1.2	x	_____	=	_____
1010	1	0.7	x	_____	=	_____
1011	M	0.2	x	_____	=	_____
1012						Total _____
1013				Victim Injury		
1014	Level	Sentence Points		Number		Total
1015	2nd degree murder- death	240	x	_____	=	_____
1016	Death	120	x	_____	=	_____
1017	Severe	40	x	_____	=	_____
1018	Moderate	18	x	_____	=	_____
1019	Slight	4	x	_____	=	_____
	Sexual penetrati	80	x	_____	=	_____

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on  
Sexual 40 x \_\_\_\_\_ = \_\_\_\_\_  
contact  
Total \_\_\_\_\_

Primary Offense + Additional Offenses + Victim Injury =  
TOTAL OFFENSE SCORE

PRIOR RECORD SCORE

Prior Record

Level	Sentence Points		Number		Total
10	29	x	_____	=	_____
9	23	x	_____	=	_____
8	19	x	_____	=	_____
7	14	x	_____	=	_____
6	9	x	_____	=	_____
5	3.6	x	_____	=	_____

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1036	4	2.4	x	_____	=	_____
1037	3	1.6	x	_____	=	_____
1038	2	0.8	x	_____	=	_____
1039	1	0.5	x	_____	=	_____
1040	M	0.2	x	_____	=	_____
1041						Total _____
1042						
1043				TOTAL OFFENSE SCORE _____		
1044				TOTAL PRIOR RECORD SCORE _____		
1045						
1046				LEGAL STATUS _____		
1047				COMMUNITY SANCTION VIOLATION _____		
1048				PRIOR SERIOUS FELONY _____		
1049				PRIOR CAPITAL FELONY _____		
1050				FIREARM OR SEMIAUTOMATIC WEAPON _____		
1051						SUBTOTAL _____
1052						
1053				PRISON RELEASEE REOFFENDER (no)(yes) _____		
1054				VIOLENT CAREER CRIMINAL (no)(yes) _____		
1055				HABITUAL VIOLENT OFFENDER (no)(yes) _____		
1056				HABITUAL OFFENDER (no)(yes) _____		
1057				DRUG TRAFFICKER (no)(yes) (x multiplier) _____		

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1058 LAW ENF. PROTECT. (no)(yes) (x multiplier)\_\_\_\_\_

1059 MOTOR VEHICLE THEFT (no)(yes) (x multiplier)\_\_\_\_\_

1060 CRIMINAL STREET GANG OFFENSE (no)(yes) (x multiplier)

1061 \_\_\_\_\_

1062 DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD

1063 (no)(yes) (x

1064 multiplier)\_\_\_\_\_

1065

1066 TOTAL SENTENCE POINTS\_\_\_\_\_

1067

1068 (b) WORKSHEET KEY:

1069

1070 Legal status points are assessed when any form of legal status

1071 existed at the time the offender committed an offense before the

1072 court for sentencing. Four (4) sentence points are assessed for

1073 an offender's legal status.

1074

1075 Community sanction violation points are assessed when a

1076 community sanction violation is before the court for sentencing.

1077 Six (6) sentence points are assessed for each community sanction

1078 violation, and each successive community sanction violation;

1079 however, if the community sanction violation includes a new

1080 felony conviction before the sentencing court, twelve (12)

1081 community sanction violation points are assessed for such

1082 violation, and for each successive community sanction violation

1083 involving a new felony conviction. Multiple counts of community

1084 sanction violations before the sentencing court shall not be a



1085 basis for multiplying the assessment of community sanction  
 1086 violation points.

1087  
 1088 Prior serious felony points: If the offender has a primary  
 1089 offense or any additional offense ranked in level 8, level 9, or  
 1090 level 10, and one or more prior serious felonies, a single  
 1091 assessment of 30 points shall be added. For purposes of this  
 1092 section, a prior serious felony is an offense in the offender's  
 1093 prior record that is ranked in level 8, level 9, or level 10  
 1094 under s. 921.0022 or s. 921.0023 and for which the offender is  
 1095 serving a sentence of confinement, supervision, or other  
 1096 sanction or for which the offender's date of release from  
 1097 confinement, supervision, or other sanction, whichever is later,  
 1098 is within 3 years before the date the primary offense or any  
 1099 additional offense was committed.

1100  
 1101 Prior capital felony points: If the offender has one or more  
 1102 prior capital felonies in the offender's criminal record, points  
 1103 shall be added to the subtotal sentence points of the offender  
 1104 equal to twice the number of points the offender receives for  
 1105 the primary offense and any additional offense. A prior capital  
 1106 felony in the offender's criminal record is a previous capital  
 1107 felony offense for which the offender has entered a plea of nolo  
 1108 contendere or guilty or has been found guilty; or a felony in  
 1109 another jurisdiction which is a capital felony in that  
 1110 jurisdiction, or would be a capital felony if the offense were  
 1111 committed in this state.

1112

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1113 Possession of a firearm, semiautomatic firearm, or machine gun:  
 1114 If the offender is convicted of committing or attempting to  
 1115 commit any felony other than those enumerated in s. 775.087(2)  
 1116 while having in his or her possession: a firearm as defined in  
 1117 s. 790.001(6), an additional 18 sentence points are assessed; or  
 1118 if the offender is convicted of committing or attempting to  
 1119 commit any felony other than those enumerated in s. 775.087(3)  
 1120 while having in his or her possession a semiautomatic firearm as  
 1121 defined in s. 775.087(3) or a machine gun as defined in s.  
 1122 790.001(9), an additional 25 sentence points are assessed.

1123  
 1124 Sentencing multipliers:

1125  
 1126 Drug trafficking: If the primary offense is drug trafficking  
 1127 under s. 893.135, the subtotal sentence points are multiplied,  
 1128 at the discretion of the court, for a level 7 or level 8  
 1129 offense, by 1.5. The state attorney may move the sentencing  
 1130 court to reduce or suspend the sentence of a person convicted of  
 1131 a level 7 or level 8 offense, if the offender provides  
 1132 substantial assistance as described in s. 893.135(4).

1133  
 1134 Law enforcement protection: If the primary offense is a  
 1135 violation of the Law Enforcement Protection Act under s.  
 1136 775.0823(2), the subtotal sentence points are multiplied by 2.5.  
 1137 If the primary offense is a violation of s. 775.0823(3), (4),  
 1138 (5), (6), (7), or (8), the subtotal sentence points are  
 1139 multiplied by 2.0. If the primary offense is a violation of s.  
 1140 784.07(3) or s. 775.0875(1), or of the Law Enforcement

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1141 Protection Act under s. 775.0823(9) or (10), the subtotal  
 1142 sentence points are multiplied by 1.5.

1143  
 1144 Grand theft of a motor vehicle: If the primary offense is grand  
 1145 theft of the third degree involving a motor vehicle and in the  
 1146 offender's prior record, there are three or more grand thefts of  
 1147 the third degree involving a motor vehicle, the subtotal  
 1148 sentence points are multiplied by 1.5.

1149  
 1150 Offense related to a criminal street gang: If the offender is  
 1151 convicted of the primary offense and committed that offense for  
 1152 the purpose of benefiting, promoting, or furthering the  
 1153 interests of a criminal street gang as prohibited under s.  
 1154 874.04, the subtotal sentence points are multiplied by 1.5.

1155  
 1156 Domestic violence in the presence of a child: If the offender is  
 1157 convicted of the primary offense and the primary offense is a  
 1158 crime of domestic violence, as defined in s. 741.28, which was  
 1159 committed in the presence of a child under 16 years of age who  
 1160 is a family or household member as defined in s. 741.28(3) with  
 1161 the victim or perpetrator, the subtotal sentence points are  
 1162 multiplied by 1.5.

1163 Section 19. For the purpose of incorporating the amendment  
 1164 to section 893.135, Florida Statutes, in a reference thereto,  
 1165 subsection (2) of section 921.142, Florida Statutes, is  
 1166 reenacted to read:

1167           921.142 Sentence of death or life imprisonment for capital  
 1168 drug trafficking felonies; further proceedings to determine  
 1169 sentence.--

1170           (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.--Upon  
 1171 conviction or adjudication of guilt of a defendant of a capital  
 1172 felony under s. 893.135, the court shall conduct a separate  
 1173 sentencing proceeding to determine whether the defendant should  
 1174 be sentenced to death or life imprisonment as authorized by s.  
 1175 775.082. The proceeding shall be conducted by the trial judge  
 1176 before the trial jury as soon as practicable. If, through  
 1177 impossibility or inability, the trial jury is unable to  
 1178 reconvene for a hearing on the issue of penalty, having  
 1179 determined the guilt of the accused, the trial judge may summon  
 1180 a special juror or jurors as provided in chapter 913 to  
 1181 determine the issue of the imposition of the penalty. If the  
 1182 trial jury has been waived, or if the defendant pleaded guilty,  
 1183 the sentencing proceeding shall be conducted before a jury  
 1184 impaneled for that purpose, unless waived by the defendant. In  
 1185 the proceeding, evidence may be presented as to any matter that  
 1186 the court deems relevant to the nature of the crime and the  
 1187 character of the defendant and shall include matters relating to  
 1188 any of the aggravating or mitigating circumstances enumerated in  
 1189 subsections (6) and (7). Any such evidence which the court deems  
 1190 to have probative value may be received, regardless of its  
 1191 admissibility under the exclusionary rules of evidence, provided  
 1192 the defendant is accorded a fair opportunity to rebut any  
 1193 hearsay statements. However, this subsection shall not be  
 1194 construed to authorize the introduction of any evidence secured

1195 in violation of the Constitution of the United States or the  
 1196 Constitution of the State of Florida. The state and the  
 1197 defendant or the defendant's counsel shall be permitted to  
 1198 present argument for or against sentence of death.

1199 Section 20. For the purpose of incorporating the amendment  
 1200 to section 893.13, Florida Statutes, in a reference thereto,  
 1201 subsection (1) of section 921.187, Florida Statutes, is  
 1202 reenacted to read:

1203 921.187 Disposition and sentencing; alternatives;  
 1204 restitution.--

1205 (1) The alternatives provided in this section for the  
 1206 disposition of criminal cases shall be used in a manner that  
 1207 will best serve the needs of society, punish criminal offenders,  
 1208 and provide the opportunity for rehabilitation.

1209 (a) If the offender does not receive a state prison  
 1210 sentence, the court may:

1211 1. Impose a split sentence whereby the offender is to be  
 1212 placed on probation upon completion of any specified period of  
 1213 such sentence, which period may include a term of years or less.

1214 2. Make any other disposition that is authorized by law.

1215 3. Place the offender on probation with or without an  
 1216 adjudication of guilt pursuant to s. 948.01.

1217 4. Impose a fine and probation pursuant to s. 948.011 when  
 1218 the offense is punishable by both a fine and imprisonment and  
 1219 probation is authorized.

1220 5. Place the offender into community control requiring  
 1221 intensive supervision and surveillance pursuant to chapter 948.

1222           6. Impose, as a condition of probation or community  
 1223 control, a period of treatment which shall be restricted to a  
 1224 county facility, a Department of Corrections probation and  
 1225 restitution center, a probation program drug punishment  
 1226 treatment community, or a community residential or  
 1227 nonresidential facility, excluding a community correctional  
 1228 center as defined in s. 944.026, which is owned and operated by  
 1229 any qualified public or private entity providing such services.  
 1230 Before admission to such a facility, the court shall obtain an  
 1231 individual assessment and recommendations on the appropriate  
 1232 treatment needs, which shall be considered by the court in  
 1233 ordering such placements. Placement in such a facility, except  
 1234 for a county residential probation facility, may not exceed 364  
 1235 days. Placement in a county residential probation facility may  
 1236 not exceed 3 years. Early termination of placement may be  
 1237 recommended to the court, when appropriate, by the center  
 1238 supervisor, the supervising probation officer, or the probation  
 1239 program manager.

1240           7. Sentence the offender pursuant to s. 922.051 to  
 1241 imprisonment in a county jail when a statute directs  
 1242 imprisonment in a state prison, if the offender's cumulative  
 1243 sentence, whether from the same circuit or from separate  
 1244 circuits, is not more than 364 days.

1245           8. Sentence the offender who is to be punished by  
 1246 imprisonment in a county jail to a jail in another county if  
 1247 there is no jail within the county suitable for such prisoner  
 1248 pursuant to s. 950.01.

1249           9. Require the offender to participate in a work-release  
 1250 or educational or technical training program pursuant to s.  
 1251 951.24 while serving a sentence in a county jail, if such a  
 1252 program is available.

1253           10. Require the offender to perform a specified public  
 1254 service pursuant to s. 775.091.

1255           11. Require the offender who violates chapter 893 or  
 1256 violates any law while under the influence of a controlled  
 1257 substance or alcohol to participate in a substance abuse  
 1258 program.

1259           12.a. Require the offender who violates any criminal  
 1260 provision of chapter 893 to pay an additional assessment in an  
 1261 amount up to the amount of any fine imposed, pursuant to ss.  
 1262 938.21 and 938.23.

1263           b. Require the offender who violates any provision of s.  
 1264 893.13 to pay an additional assessment in an amount of \$100,  
 1265 pursuant to ss. 938.25 and 943.361.

1266           13. Impose a split sentence whereby the offender is to be  
 1267 placed in a county jail or county work camp upon the completion  
 1268 of any specified term of community supervision.

1269           14. Impose split probation whereby upon satisfactory  
 1270 completion of half the term of probation, the Department of  
 1271 Corrections may place the offender on administrative probation  
 1272 pursuant to s. 948.013 for the remainder of the term of  
 1273 supervision.

1274           15. Require residence in a state probation and restitution  
 1275 center or private drug treatment program for offenders on

1276 community control or offenders who have violated conditions of  
 1277 probation.

1278 16. Impose any other sanction which is provided within the  
 1279 community and approved as an intermediate sanction by the county  
 1280 public safety coordinating council as described in s. 951.26.

1281 17. Impose, as a condition of community control,  
 1282 probation, or probation following incarceration, a requirement  
 1283 that an offender who has not obtained a high school diploma or  
 1284 high school equivalency diploma or who lacks basic or functional  
 1285 literacy skills, upon acceptance by an adult education program,  
 1286 make a good faith effort toward completion of such basic or  
 1287 functional literacy skills or high school equivalency diploma,  
 1288 as defined in s. 1003.435, in accordance with the assessed adult  
 1289 general education needs of the individual offender.

1290 (b)1. Notwithstanding any provision of former s. 921.001  
 1291 or s. 921.002 to the contrary, on or after October 1, 1993, the  
 1292 court may require any defendant who violates s. 893.13(1)(a)1.,  
 1293 (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and meets the criteria  
 1294 described in s. 893.13(10), to successfully complete a term of  
 1295 probation pursuant to the terms and conditions set forth in s.  
 1296 948.034(1), in lieu of serving a term of imprisonment.

1297 2. Notwithstanding any provision of former s. 921.001 or  
 1298 s. 921.002 to the contrary, on or after October 1, 1993, the  
 1299 court may require any defendant who violates s. 893.13(1)(a)2.,  
 1300 (2)(a)2., (5)(b), or (6)(a), and meets the criteria described in  
 1301 s. 893.13(11), to successfully complete a term of probation  
 1302 pursuant to the terms and conditions set forth in s. 948.034(2),  
 1303 in lieu of serving a term of imprisonment.



1304 Section 21. For the purpose of incorporating the amendment  
 1305 to section 893.13, Florida Statutes, in a reference thereto,  
 1306 section 938.25, Florida Statutes, is reenacted to read:

1307 938.25 Operating Trust Fund of the Department of Law  
 1308 Enforcement.--Notwithstanding any provision to the contrary of  
 1309 the laws of this state, the court may assess any defendant who  
 1310 pleads guilty or nolo contendere to, or is convicted of, a  
 1311 violation of any provision of s. 893.13, without regard to  
 1312 whether adjudication was withheld, in addition to any fine and  
 1313 other penalty provided or authorized by law, an amount of \$100,  
 1314 to be paid to the clerk of the court, who shall forward it to  
 1315 the Department of Revenue for deposit in the Operating Trust  
 1316 Fund of the Department of Law Enforcement to be used by the  
 1317 statewide criminal analysis laboratory system for the purposes  
 1318 specified in s. 943.361. The court is authorized to order a  
 1319 defendant to pay an additional assessment if it finds that the  
 1320 defendant has the ability to pay the fine and the additional  
 1321 assessment and will not be prevented thereby from being  
 1322 rehabilitated or from making restitution.

1323 Section 22. For the purpose of incorporating the amendment  
 1324 to section 893.135, Florida Statutes, in references thereto,  
 1325 section 943.0585, Florida Statutes, is reenacted to read:

1326 943.0585 Court-ordered expunction of criminal history  
 1327 records.--The courts of this state have jurisdiction over their  
 1328 own procedures, including the maintenance, expunction, and  
 1329 correction of judicial records containing criminal history  
 1330 information to the extent such procedures are not inconsistent  
 1331 with the conditions, responsibilities, and duties established by

1332 this section. Any court of competent jurisdiction may order a  
 1333 criminal justice agency to expunge the criminal history record  
 1334 of a minor or an adult who complies with the requirements of  
 1335 this section. The court shall not order a criminal justice  
 1336 agency to expunge a criminal history record until the person  
 1337 seeking to expunge a criminal history record has applied for and  
 1338 received a certificate of eligibility for expunction pursuant to  
 1339 subsection (2). A criminal history record that relates to a  
 1340 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
 1341 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,  
 1342 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,  
 1343 s. 916.1075, or a violation enumerated in s. 907.041 may not be  
 1344 expunged, without regard to whether adjudication was withheld,  
 1345 if the defendant was found guilty of or pled guilty or nolo  
 1346 contendere to the offense, or if the defendant, as a minor, was  
 1347 found to have committed, or pled guilty or nolo contendere to  
 1348 committing, the offense as a delinquent act. The court may only  
 1349 order expunction of a criminal history record pertaining to one  
 1350 arrest or one incident of alleged criminal activity, except as  
 1351 provided in this section. The court may, at its sole discretion,  
 1352 order the expunction of a criminal history record pertaining to  
 1353 more than one arrest if the additional arrests directly relate  
 1354 to the original arrest. If the court intends to order the  
 1355 expunction of records pertaining to such additional arrests,  
 1356 such intent must be specified in the order. A criminal justice  
 1357 agency may not expunge any record pertaining to such additional  
 1358 arrests if the order to expunge does not articulate the  
 1359 intention of the court to expunge a record pertaining to more

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1360 than one arrest. This section does not prevent the court from  
 1361 ordering the expunction of only a portion of a criminal history  
 1362 record pertaining to one arrest or one incident of alleged  
 1363 criminal activity. Notwithstanding any law to the contrary, a  
 1364 criminal justice agency may comply with laws, court orders, and  
 1365 official requests of other jurisdictions relating to expunction,  
 1366 correction, or confidential handling of criminal history records  
 1367 or information derived therefrom. This section does not confer  
 1368 any right to the expunction of any criminal history record, and  
 1369 any request for expunction of a criminal history record may be  
 1370 denied at the sole discretion of the court.

1371 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.--Each  
 1372 petition to a court to expunge a criminal history record is  
 1373 complete only when accompanied by:

1374 (a) A certificate of eligibility for expunction issued by  
 1375 the department pursuant to subsection (2).

1376 (b) The petitioner's sworn statement attesting that the  
 1377 petitioner:

1378 1. Has never, prior to the date on which the petition is  
 1379 filed, been adjudicated guilty of a criminal offense or  
 1380 comparable ordinance violation or adjudicated delinquent for  
 1381 committing a felony or a misdemeanor specified in s.  
 1382 943.051(3)(b).

1383 2. Has not been adjudicated guilty of, or adjudicated  
 1384 delinquent for committing, any of the acts stemming from the  
 1385 arrest or alleged criminal activity to which the petition  
 1386 pertains.

1387           3. Has never secured a prior sealing or expunction of a  
 1388 criminal history record under this section, former s. 893.14,  
 1389 former s. 901.33, or former s. 943.058, or from any jurisdiction  
 1390 outside the state.

1391           4. Is eligible for such an expunction to the best of his  
 1392 or her knowledge or belief and does not have any other petition  
 1393 to expunge or any petition to seal pending before any court.

1394  
 1395 Any person who knowingly provides false information on such  
 1396 sworn statement to the court commits a felony of the third  
 1397 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1398 775.084.

1399           (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior to  
 1400 petitioning the court to expunge a criminal history record, a  
 1401 person seeking to expunge a criminal history record shall apply  
 1402 to the department for a certificate of eligibility for  
 1403 expunction. The department shall, by rule adopted pursuant to  
 1404 chapter 120, establish procedures pertaining to the application  
 1405 for and issuance of certificates of eligibility for expunction.  
 1406 The department shall issue a certificate of eligibility for  
 1407 expunction to a person who is the subject of a criminal history  
 1408 record if that person:

1409           (a) Has obtained, and submitted to the department, a  
 1410 written, certified statement from the appropriate state attorney  
 1411 or statewide prosecutor which indicates:

1412           1. That an indictment, information, or other charging  
 1413 document was not filed or issued in the case.

1414           2. That an indictment, information, or other charging  
 1415 document, if filed or issued in the case, was dismissed or nolle  
 1416 prosequi by the state attorney or statewide prosecutor, or was  
 1417 dismissed by a court of competent jurisdiction.

1418           3. That the criminal history record does not relate to a  
 1419 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
 1420 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,  
 1421 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,  
 1422 s. 916.1075, or a violation enumerated in s. 907.041, where the  
 1423 defendant was found guilty of, or pled guilty or nolo contendere  
 1424 to any such offense, or that the defendant, as a minor, was  
 1425 found to have committed, or pled guilty or nolo contendere to  
 1426 committing, such an offense as a delinquent act, without regard  
 1427 to whether adjudication was withheld.

1428           (b) Remits a \$75 processing fee to the department for  
 1429 placement in the Department of Law Enforcement Operating Trust  
 1430 Fund, unless such fee is waived by the executive director.

1431           (c) Has submitted to the department a certified copy of  
 1432 the disposition of the charge to which the petition to expunge  
 1433 pertains.

1434           (d) Has never, prior to the date on which the application  
 1435 for a certificate of eligibility is filed, been adjudicated  
 1436 guilty of a criminal offense or comparable ordinance violation  
 1437 or adjudicated delinquent for committing a felony or a  
 1438 misdemeanor specified in s. 943.051(3)(b).

1439           (e) Has not been adjudicated guilty of, or adjudicated  
 1440 delinquent for committing, any of the acts stemming from the

1441 arrest or alleged criminal activity to which the petition to  
 1442 expunge pertains.

1443 (f) Has never secured a prior sealing or expunction of a  
 1444 criminal history record under this section, former s. 893.14,  
 1445 former s. 901.33, or former s. 943.058.

1446 (g) Is no longer under court supervision applicable to the  
 1447 disposition of the arrest or alleged criminal activity to which  
 1448 the petition to expunge pertains.

1449 (h) Is not required to wait a minimum of 10 years prior to  
 1450 being eligible for an expunction of such records because all  
 1451 charges related to the arrest or criminal activity to which the  
 1452 petition to expunge pertains were dismissed prior to trial,  
 1453 adjudication, or the withholding of adjudication. Otherwise,  
 1454 such criminal history record must be sealed under this section,  
 1455 former s. 893.14, former s. 901.33, or former s. 943.058 for at  
 1456 least 10 years before such record is eligible for expunction.

1457 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.--

1458 (a) In judicial proceedings under this section, a copy of  
 1459 the completed petition to expunge shall be served upon the  
 1460 appropriate state attorney or the statewide prosecutor and upon  
 1461 the arresting agency; however, it is not necessary to make any  
 1462 agency other than the state a party. The appropriate state  
 1463 attorney or the statewide prosecutor and the arresting agency  
 1464 may respond to the court regarding the completed petition to  
 1465 expunge.

1466 (b) If relief is granted by the court, the clerk of the  
 1467 court shall certify copies of the order to the appropriate state  
 1468 attorney or the statewide prosecutor and the arresting agency.

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1469 The arresting agency is responsible for forwarding the order to  
1470 any other agency to which the arresting agency disseminated the  
1471 criminal history record information to which the order pertains.  
1472 The department shall forward the order to expunge to the Federal  
1473 Bureau of Investigation. The clerk of the court shall certify a  
1474 copy of the order to any other agency which the records of the  
1475 court reflect has received the criminal history record from the  
1476 court.

1477 (c) For an order to expunge entered by a court prior to  
1478 July 1, 1992, the department shall notify the appropriate state  
1479 attorney or statewide prosecutor of an order to expunge which is  
1480 contrary to law because the person who is the subject of the  
1481 record has previously been convicted of a crime or comparable  
1482 ordinance violation or has had a prior criminal history record  
1483 sealed or expunged. Upon receipt of such notice, the appropriate  
1484 state attorney or statewide prosecutor shall take action, within  
1485 60 days, to correct the record and petition the court to void  
1486 the order to expunge. The department shall seal the record until  
1487 such time as the order is voided by the court.

1488 (d) On or after July 1, 1992, the department or any other  
1489 criminal justice agency is not required to act on an order to  
1490 expunge entered by a court when such order does not comply with  
1491 the requirements of this section. Upon receipt of such an order,  
1492 the department must notify the issuing court, the appropriate  
1493 state attorney or statewide prosecutor, the petitioner or the  
1494 petitioner's attorney, and the arresting agency of the reason  
1495 for noncompliance. The appropriate state attorney or statewide  
1496 prosecutor shall take action within 60 days to correct the

1497 record and petition the court to void the order. No cause of  
 1498 action, including contempt of court, shall arise against any  
 1499 criminal justice agency for failure to comply with an order to  
 1500 expunge when the petitioner for such order failed to obtain the  
 1501 certificate of eligibility as required by this section or such  
 1502 order does not otherwise comply with the requirements of this  
 1503 section.

1504 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
 1505 criminal history record of a minor or an adult which is ordered  
 1506 expunged by a court of competent jurisdiction pursuant to this  
 1507 section must be physically destroyed or obliterated by any  
 1508 criminal justice agency having custody of such record; except  
 1509 that any criminal history record in the custody of the  
 1510 department must be retained in all cases. A criminal history  
 1511 record ordered expunged that is retained by the department is  
 1512 confidential and exempt from the provisions of s. 119.07(1) and  
 1513 s. 24(a), Art. I of the State Constitution and not available to  
 1514 any person or entity except upon order of a court of competent  
 1515 jurisdiction. A criminal justice agency may retain a notation  
 1516 indicating compliance with an order to expunge.

1517 (a) The person who is the subject of a criminal history  
 1518 record that is expunged under this section or under other  
 1519 provisions of law, including former s. 893.14, former s. 901.33,  
 1520 and former s. 943.058, may lawfully deny or fail to acknowledge  
 1521 the arrests covered by the expunged record, except when the  
 1522 subject of the record:

- 1523 1. Is a candidate for employment with a criminal justice  
 1524 agency;



- 1525           2. Is a defendant in a criminal prosecution;
- 1526           3. Concurrently or subsequently petitions for relief under  
1527 this section or s. 943.059;
- 1528           4. Is a candidate for admission to The Florida Bar;
- 1529           5. Is seeking to be employed or licensed by or to contract  
1530 with the Department of Children and Family Services or the  
1531 Department of Juvenile Justice or to be employed or used by such  
1532 contractor or licensee in a sensitive position having direct  
1533 contact with children, the developmentally disabled, the aged,  
1534 or the elderly as provided in s. 110.1127(3), s. 393.063, s.  
1535 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.  
1536 409.175(2)(i), s. 415.102(4), s. 916.106(10) and (13), s.  
1537 985.407, or chapter 400; or
- 1538           6. Is seeking to be employed or licensed by the Department  
1539 of Education, any district school board, any university  
1540 laboratory school, any charter school, any private or parochial  
1541 school, or any local governmental entity that licenses child  
1542 care facilities.
- 1543           (b) Subject to the exceptions in paragraph (a), a person  
1544 who has been granted an expunction under this section, former s.  
1545 893.14, former s. 901.33, or former s. 943.058 may not be held  
1546 under any provision of law of this state to commit perjury or to  
1547 be otherwise liable for giving a false statement by reason of  
1548 such person's failure to recite or acknowledge an expunged  
1549 criminal history record.
- 1550           (c) Information relating to the existence of an expunged  
1551 criminal history record which is provided in accordance with  
1552 paragraph (a) is confidential and exempt from the provisions of

1553 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
 1554 except that the department shall disclose the existence of a  
 1555 criminal history record ordered expunged to the entities set  
 1556 forth in subparagraphs (a)1., 4., 5., and 6. for their  
 1557 respective licensing and employment purposes, and to criminal  
 1558 justice agencies for their respective criminal justice purposes.  
 1559 It is unlawful for any employee of an entity set forth in  
 1560 subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or  
 1561 subparagraph (a)6. to disclose information relating to the  
 1562 existence of an expunged criminal history record of a person  
 1563 seeking employment or licensure with such entity or contractor,  
 1564 except to the person to whom the criminal history record relates  
 1565 or to persons having direct responsibility for employment or  
 1566 licensure decisions. Any person who violates this paragraph  
 1567 commits a misdemeanor of the first degree, punishable as  
 1568 provided in s. 775.082 or s. 775.083.

1569 (5) STATUTORY REFERENCES.--Any reference to any other  
 1570 chapter, section, or subdivision of the Florida Statutes in this  
 1571 section constitutes a general reference under the doctrine of  
 1572 incorporation by reference.

1573 Section 23. For the purpose of incorporating the amendment  
 1574 to section 893.135, Florida Statutes, in a reference thereto,  
 1575 section 943.059, Florida Statutes, is reenacted to read:

1576 943.059 Court-ordered sealing of criminal history  
 1577 records.--The courts of this state shall continue to have  
 1578 jurisdiction over their own procedures, including the  
 1579 maintenance, sealing, and correction of judicial records  
 1580 containing criminal history information to the extent such

1581 procedures are not inconsistent with the conditions,  
1582 responsibilities, and duties established by this section. Any  
1583 court of competent jurisdiction may order a criminal justice  
1584 agency to seal the criminal history record of a minor or an  
1585 adult who complies with the requirements of this section. The  
1586 court shall not order a criminal justice agency to seal a  
1587 criminal history record until the person seeking to seal a  
1588 criminal history record has applied for and received a  
1589 certificate of eligibility for sealing pursuant to subsection  
1590 (2). A criminal history record that relates to a violation of s.  
1591 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.  
1592 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s.  
1593 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, or  
1594 a violation enumerated in s. 907.041 may not be sealed, without  
1595 regard to whether adjudication was withheld, if the defendant  
1596 was found guilty of or pled guilty or nolo contendere to the  
1597 offense, or if the defendant, as a minor, was found to have  
1598 committed or pled guilty or nolo contendere to committing the  
1599 offense as a delinquent act. The court may only order sealing of  
1600 a criminal history record pertaining to one arrest or one  
1601 incident of alleged criminal activity, except as provided in  
1602 this section. The court may, at its sole discretion, order the  
1603 sealing of a criminal history record pertaining to more than one  
1604 arrest if the additional arrests directly relate to the original  
1605 arrest. If the court intends to order the sealing of records  
1606 pertaining to such additional arrests, such intent must be  
1607 specified in the order. A criminal justice agency may not seal  
1608 any record pertaining to such additional arrests if the order to

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1609 seal does not articulate the intention of the court to seal  
1610 records pertaining to more than one arrest. This section does  
1611 not prevent the court from ordering the sealing of only a  
1612 portion of a criminal history record pertaining to one arrest or  
1613 one incident of alleged criminal activity. Notwithstanding any  
1614 law to the contrary, a criminal justice agency may comply with  
1615 laws, court orders, and official requests of other jurisdictions  
1616 relating to sealing, correction, or confidential handling of  
1617 criminal history records or information derived therefrom. This  
1618 section does not confer any right to the sealing of any criminal  
1619 history record, and any request for sealing a criminal history  
1620 record may be denied at the sole discretion of the court.

1621 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each  
1622 petition to a court to seal a criminal history record is  
1623 complete only when accompanied by:

1624 (a) A certificate of eligibility for sealing issued by the  
1625 department pursuant to subsection (2).

1626 (b) The petitioner's sworn statement attesting that the  
1627 petitioner:

1628 1. Has never, prior to the date on which the petition is  
1629 filed, been adjudicated guilty of a criminal offense or  
1630 comparable ordinance violation or adjudicated delinquent for  
1631 committing a felony or a misdemeanor specified in s.  
1632 943.051(3)(b).

1633 2. Has not been adjudicated guilty of or adjudicated  
1634 delinquent for committing any of the acts stemming from the  
1635 arrest or alleged criminal activity to which the petition to  
1636 seal pertains.

1637           3. Has never secured a prior sealing or expunction of a  
 1638 criminal history record under this section, former s. 893.14,  
 1639 former s. 901.33, former s. 943.058, or from any jurisdiction  
 1640 outside the state.

1641           4. Is eligible for such a sealing to the best of his or  
 1642 her knowledge or belief and does not have any other petition to  
 1643 seal or any petition to expunge pending before any court.

1644  
 1645 Any person who knowingly provides false information on such  
 1646 sworn statement to the court commits a felony of the third  
 1647 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1648 775.084.

1649           (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to  
 1650 petitioning the court to seal a criminal history record, a  
 1651 person seeking to seal a criminal history record shall apply to  
 1652 the department for a certificate of eligibility for sealing. The  
 1653 department shall, by rule adopted pursuant to chapter 120,  
 1654 establish procedures pertaining to the application for and  
 1655 issuance of certificates of eligibility for sealing. The  
 1656 department shall issue a certificate of eligibility for sealing  
 1657 to a person who is the subject of a criminal history record  
 1658 provided that such person:

1659           (a) Has submitted to the department a certified copy of  
 1660 the disposition of the charge to which the petition to seal  
 1661 pertains.

1662           (b) Remits a \$75 processing fee to the department for  
 1663 placement in the Department of Law Enforcement Operating Trust  
 1664 Fund, unless such fee is waived by the executive director.

1665 (c) Has never, prior to the date on which the application  
 1666 for a certificate of eligibility is filed, been adjudicated  
 1667 guilty of a criminal offense or comparable ordinance violation  
 1668 or adjudicated delinquent for committing a felony or a  
 1669 misdemeanor specified in s. 943.051(3)(b).

1670 (d) Has not been adjudicated guilty of or adjudicated  
 1671 delinquent for committing any of the acts stemming from the  
 1672 arrest or alleged criminal activity to which the petition to  
 1673 seal pertains.

1674 (e) Has never secured a prior sealing or expunction of a  
 1675 criminal history record under this section, former s. 893.14,  
 1676 former s. 901.33, or former s. 943.058.

1677 (f) Is no longer under court supervision applicable to the  
 1678 disposition of the arrest or alleged criminal activity to which  
 1679 the petition to seal pertains.

1680 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

1681 (a) In judicial proceedings under this section, a copy of  
 1682 the completed petition to seal shall be served upon the  
 1683 appropriate state attorney or the statewide prosecutor and upon  
 1684 the arresting agency; however, it is not necessary to make any  
 1685 agency other than the state a party. The appropriate state  
 1686 attorney or the statewide prosecutor and the arresting agency  
 1687 may respond to the court regarding the completed petition to  
 1688 seal.

1689 (b) If relief is granted by the court, the clerk of the  
 1690 court shall certify copies of the order to the appropriate state  
 1691 attorney or the statewide prosecutor and to the arresting  
 1692 agency. The arresting agency is responsible for forwarding the

1693 order to any other agency to which the arresting agency  
1694 disseminated the criminal history record information to which  
1695 the order pertains. The department shall forward the order to  
1696 seal to the Federal Bureau of Investigation. The clerk of the  
1697 court shall certify a copy of the order to any other agency  
1698 which the records of the court reflect has received the criminal  
1699 history record from the court.

1700 (c) For an order to seal entered by a court prior to July  
1701 1, 1992, the department shall notify the appropriate state  
1702 attorney or statewide prosecutor of any order to seal which is  
1703 contrary to law because the person who is the subject of the  
1704 record has previously been convicted of a crime or comparable  
1705 ordinance violation or has had a prior criminal history record  
1706 sealed or expunged. Upon receipt of such notice, the appropriate  
1707 state attorney or statewide prosecutor shall take action, within  
1708 60 days, to correct the record and petition the court to void  
1709 the order to seal. The department shall seal the record until  
1710 such time as the order is voided by the court.

1711 (d) On or after July 1, 1992, the department or any other  
1712 criminal justice agency is not required to act on an order to  
1713 seal entered by a court when such order does not comply with the  
1714 requirements of this section. Upon receipt of such an order, the  
1715 department must notify the issuing court, the appropriate state  
1716 attorney or statewide prosecutor, the petitioner or the  
1717 petitioner's attorney, and the arresting agency of the reason  
1718 for noncompliance. The appropriate state attorney or statewide  
1719 prosecutor shall take action within 60 days to correct the  
1720 record and petition the court to void the order. No cause of

1721 action, including contempt of court, shall arise against any  
 1722 criminal justice agency for failure to comply with an order to  
 1723 seal when the petitioner for such order failed to obtain the  
 1724 certificate of eligibility as required by this section or when  
 1725 such order does not comply with the requirements of this  
 1726 section.

1727 (e) An order sealing a criminal history record pursuant to  
 1728 this section does not require that such record be surrendered to  
 1729 the court, and such record shall continue to be maintained by  
 1730 the department and other criminal justice agencies.

1731 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal  
 1732 history record of a minor or an adult which is ordered sealed by  
 1733 a court of competent jurisdiction pursuant to this section is  
 1734 confidential and exempt from the provisions of s. 119.07(1) and  
 1735 s. 24(a), Art. I of the State Constitution and is available only  
 1736 to the person who is the subject of the record, to the subject's  
 1737 attorney, to criminal justice agencies for their respective  
 1738 criminal justice purposes, or to those entities set forth in  
 1739 subparagraphs (a)1., 4., 5., and 6. for their respective  
 1740 licensing and employment purposes.

1741 (a) The subject of a criminal history record sealed under  
 1742 this section or under other provisions of law, including former  
 1743 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
 1744 deny or fail to acknowledge the arrests covered by the sealed  
 1745 record, except when the subject of the record:

- 1746 1. Is a candidate for employment with a criminal justice
- 1747 agency;
- 1748 2. Is a defendant in a criminal prosecution;



1749           3. Concurrently or subsequently petitions for relief under  
1750 this section or s. 943.0585;

1751           4. Is a candidate for admission to The Florida Bar;

1752           5. Is seeking to be employed or licensed by or to contract  
1753 with the Department of Children and Family Services or the  
1754 Department of Juvenile Justice or to be employed or used by such  
1755 contractor or licensee in a sensitive position having direct  
1756 contact with children, the developmentally disabled, the aged,  
1757 or the elderly as provided in s. 110.1127(3), s. 393.063, s.  
1758 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.  
1759 409.175(2)(i), s. 415.102(4), s. 415.103, s. 916.106(10) and  
1760 (13), s. 985.407, or chapter 400; or

1761           6. Is seeking to be employed or licensed by the Department  
1762 of Education, any district school board, any university  
1763 laboratory school, any charter school, any private or parochial  
1764 school, or any local governmental entity that licenses child  
1765 care facilities.

1766           (b) Subject to the exceptions in paragraph (a), a person  
1767 who has been granted a sealing under this section, former s.  
1768 893.14, former s. 901.33, or former s. 943.058 may not be held  
1769 under any provision of law of this state to commit perjury or to  
1770 be otherwise liable for giving a false statement by reason of  
1771 such person's failure to recite or acknowledge a sealed criminal  
1772 history record.

1773           (c) Information relating to the existence of a sealed  
1774 criminal record provided in accordance with the provisions of  
1775 paragraph (a) is confidential and exempt from the provisions of  
1776 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,

1777 | except that the department shall disclose the sealed criminal  
 1778 | history record to the entities set forth in subparagraphs (a)1.,  
 1779 | 4., 5., and 6. for their respective licensing and employment  
 1780 | purposes. It is unlawful for any employee of an entity set forth  
 1781 | in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5.,  
 1782 | or subparagraph (a)6. to disclose information relating to the  
 1783 | existence of a sealed criminal history record of a person  
 1784 | seeking employment or licensure with such entity or contractor,  
 1785 | except to the person to whom the criminal history record relates  
 1786 | or to persons having direct responsibility for employment or  
 1787 | licensure decisions. Any person who violates the provisions of  
 1788 | this paragraph commits a misdemeanor of the first degree,  
 1789 | punishable as provided in s. 775.082 or s. 775.083.

1790 |       (5) STATUTORY REFERENCES.--Any reference to any other  
 1791 | chapter, section, or subdivision of the Florida Statutes in this  
 1792 | section constitutes a general reference under the doctrine of  
 1793 | incorporation by reference.

1794 |       Section 24. For the purpose of incorporating the amendment  
 1795 | to section 893.13, Florida Statutes, in references thereto,  
 1796 | subsections (1) and (2) of section 948.034, Florida Statutes,  
 1797 | are reenacted to read:

1798 |       948.034 Terms and conditions of probation; community  
 1799 | residential drug punishment centers.--

1800 |       (1) On or after October 1, 1993, any person who violates  
 1801 | s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a) may,  
 1802 | in the discretion of the trial court, be required to  
 1803 | successfully complete a term of probation in lieu of serving a

1804 term of imprisonment as required or authorized by s. 775.084,  
 1805 former s. 921.001, or s. 921.002, as follows:

1806 (a) If the person has not previously been convicted of  
 1807 violating s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or  
 1808 (5)(a), adjudication may be withheld and the offender may be  
 1809 placed on probation for not less than 18 months, as a condition  
 1810 of which the court shall require the offender to reside at a  
 1811 community residential drug punishment center for 90 days. The  
 1812 offender must comply with all rules and regulations of the  
 1813 center and must pay a fee for the costs of room and board and  
 1814 residential supervision. Placement of an offender into a  
 1815 community residential drug punishment center is subject to  
 1816 budgetary considerations and availability of bed space. If the  
 1817 court requires the offender to reside at a community residential  
 1818 drug punishment center, the court shall also require the  
 1819 offender to comply with one or more of the other following terms  
 1820 and conditions:

1821 1. Pay a fine of not less than \$500 nor more than \$10,000  
 1822 pursuant to s. 775.083(1)(c).

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

1832 referral is made, the offender must comply and must pay for the  
 1833 reasonable cost of the evaluation and treatment.

1834 3. Perform at least 100 hours of public service.

1835 4. Submit to routine and random drug testing which may be  
 1836 conducted during the probationary period, with the reasonable  
 1837 costs thereof borne by the offender.

1838 5. Participate, at his or her own expense, in an  
 1839 appropriate self-help group, such as Narcotics Anonymous,  
 1840 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1841 (b) If the person has been previously convicted of one  
 1842 felony violation of s. 893.13(1)(a)1., (1)(c)2., (1)(d)2.,  
 1843 (2)(a)1., or (5)(a), adjudication may not be withheld and the  
 1844 offender may be placed on probation for not less than 24 months,  
 1845 as a condition of which the court shall require the offender to  
 1846 reside at a community residential drug punishment center for 180  
 1847 days. The offender must comply with all rules and regulations of  
 1848 the center and must pay a fee for the costs of room and board  
 1849 and residential supervision. Placement of an offender into a  
 1850 community residential drug punishment center is subject to  
 1851 budgetary considerations and availability of bed space. If the  
 1852 court requires the offender to reside at a community residential  
 1853 drug punishment center, the court shall also require the  
 1854 offender to comply with one or more of the other following terms  
 1855 and conditions:

1856 1. Pay a fine of not less than \$1,000 nor more than  
 1857 \$10,000 pursuant to s. 775.083(1)(c).

1858 2. Enter, regularly attend, and successfully complete a  
 1859 substance abuse education program of at least 40 hours or a

1860 prescribed substance abuse treatment program provided by a  
 1861 treatment resource licensed pursuant to chapter 397 or by a  
 1862 hospital licensed pursuant to chapter 395, as specified by the  
 1863 court. In addition, the court may refer the offender to a  
 1864 licensed agency for substance abuse evaluation and, if  
 1865 appropriate, substance abuse treatment subject to the ability of  
 1866 the offender to pay for such evaluation and treatment. If such  
 1867 referral is made, the offender must comply and must pay for the  
 1868 reasonable cost of the evaluation and treatment.

1869 3. Perform at least 200 hours of public service.

1870 4. Submit to routine and random drug testing which may be  
 1871 conducted during the probationary period, with the reasonable  
 1872 costs thereof borne by the offender.

1873 5. Participate, at his or her own expense, in an  
 1874 appropriate self-help group, such as Narcotics Anonymous,  
 1875 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1876 (c) If the person has been previously convicted of two  
 1877 felony violations of s. 893.13(2)(a)1. or (5)(a), adjudication  
 1878 may not be withheld and the offender may be placed on probation  
 1879 for not less than 36 months, as a condition of which the court  
 1880 shall require the offender to reside at a community residential  
 1881 drug punishment center for 360 days. The offender must comply  
 1882 with all rules and regulations of the center and must pay a fee  
 1883 for the costs of room and board and residential supervision.  
 1884 Placement of an offender into a community residential drug  
 1885 punishment center is subject to budgetary considerations and  
 1886 availability of bed space. If the court requires the offender to  
 1887 reside at a community residential drug punishment center, the

1888 court shall also require the offender to comply with one or more  
 1889 of the other following terms and conditions:

1890 1. Pay a fine of not less than \$1,500 nor more than  
 1891 \$10,000 pursuant to s. 775.083(1)(c).

1892 2. Enter, regularly attend, and successfully complete a  
 1893 substance abuse education program of at least 40 hours or a  
 1894 prescribed substance abuse treatment program provided by a  
 1895 treatment resource licensed pursuant to chapter 397 or by a  
 1896 hospital licensed pursuant to chapter 395, as specified by the  
 1897 court. In addition, the court may refer the offender to a  
 1898 licensed agency for substance abuse evaluation and, if  
 1899 appropriate, substance abuse treatment subject to the ability of  
 1900 the offender to pay for such evaluation and treatment. If such  
 1901 referral is made, the offender must comply and must pay for the  
 1902 reasonable cost of the evaluation and treatment.

1903 3. Perform at least 300 hours of public service.

1904 4. Submit to routine and random drug testing which may be  
 1905 conducted during the probationary period, with the reasonable  
 1906 costs thereof borne by the offender.

1907 5. Participate, at his or her own expense, in an  
 1908 appropriate self-help group, such as Narcotics Anonymous,  
 1909 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1910 (d) An offender who violates probation imposed pursuant to  
 1911 this section shall be sentenced in accordance with s. 921.002.

1912 (2) On or after October 1, 1993, any person who violates  
 1913 s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a) may, in the  
 1914 discretion of the trial court, be required to successfully  
 1915 complete a term of probation in lieu of serving a term of

1916 imprisonment as required or authorized by s. 775.084, former s.  
 1917 921.001, or s. 921.002, as follows:

1918 (a) If the person has not previously been convicted of  
 1919 violating s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a),  
 1920 adjudication may be withheld and the offender shall be placed on  
 1921 probation for not less than 12 months, as a condition of which  
 1922 the court may require the offender to comply with one or more of  
 1923 the following terms and conditions:

1924 1. Pay a fine of not less than \$250 nor more than \$5,000  
 1925 pursuant to s. 775.083(1)(c).

1926 2. Enter, regularly attend, and successfully complete a  
 1927 substance abuse education program of at least 40 hours or a  
 1928 prescribed substance abuse treatment program provided by a  
 1929 treatment resource licensed pursuant to chapter 397 or by a  
 1930 hospital licensed pursuant to chapter 395, as specified by the  
 1931 court. In addition, the court may refer the offender to a  
 1932 licensed agency for substance abuse evaluation and, if  
 1933 appropriate, substance abuse treatment subject to the ability of  
 1934 the offender to pay for such evaluation and treatment. If such  
 1935 referral is made, the offender must comply and must pay for the  
 1936 reasonable cost of the evaluation and treatment.

1937 3. Perform at least 50 hours of public service.

1938 4. Submit to routine and random drug testing which may be  
 1939 conducted during the probationary period, with the reasonable  
 1940 costs thereof borne by the offender.

1941 5. Participate, at his or her own expense, in an  
 1942 appropriate self-help group, such as Narcotics Anonymous,  
 1943 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1944 (b) If the person has been previously convicted of one  
1945 felony violation of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or  
1946 (6)(a), adjudication may not be withheld and the offender may be  
1947 placed on probation for not less than 18 months, as a condition  
1948 of which the court shall require the offender to reside at a  
1949 community residential drug punishment center for 90 days. The  
1950 offender must comply with all rules and regulations of the  
1951 center and must pay a fee for the costs of room and board and  
1952 residential supervision. Placement of an offender into a  
1953 community residential drug punishment center is subject to  
1954 budgetary considerations and availability of bed space. If the  
1955 court requires the offender to reside at a community residential  
1956 drug punishment center, the court shall also require the  
1957 offender to comply with one or more of the other following terms  
1958 and conditions:

1959 1. Pay a fine of not less than \$500 nor more than \$5,000  
1960 pursuant to s. 775.083(1)(c).

1961 2. Enter, regularly attend, and successfully complete a  
1962 substance abuse intervention program of a least 80 hours  
1963 provided by a treatment resource licensed pursuant to chapter  
1964 397 or by a hospital licensed pursuant to chapter 395, as  
1965 specified by the court. In addition, the court may refer the  
1966 offender to a licensed agency for substance abuse evaluation  
1967 and, if appropriate, substance abuse treatment subject to the  
1968 ability of the offender to pay for such evaluation and  
1969 treatment. If such referral is made, the offender must comply  
1970 and must pay for the reasonable cost of the evaluation and  
1971 treatment.



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- 3. Perform at least 100 hours of public service.
  - 4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.
  - 5. Participate, at his or her own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.
- (c) If the person has been previously convicted of two felony violations of s. 893.13(2)(a)2., (5)(b), or (6)(a), adjudication may not be withheld and the offender may be placed on probation for not less than 24 months, as a condition of which the court shall require the offender to reside at a community residential drug punishment center for 120 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug punishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:
- 1. Pay a fine of not less than \$1,000 nor more than \$5,000 pursuant to s. 775.083(1)(c).
  - 2. Enter, regularly attend, and successfully complete a prescribed substance abuse treatment program provided by a treatment resource licensed pursuant to chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the

2000 court. In addition, the court may refer the offender to a  
 2001 licensed agency for substance abuse evaluation and, if  
 2002 appropriate, substance abuse treatment subject to the ability of  
 2003 the offender to pay for such evaluation and treatment. If such  
 2004 referral is made, the offender must comply and must pay for the  
 2005 reasonable cost of the evaluation and treatment.

2006 3. Perform at least 150 hours of public service.

2007 4. Submit to routine and random drug testing which may be  
 2008 conducted during the probationary period, with the reasonable  
 2009 costs thereof borne by the offender.

2010 5. Participate, at his or her own expense, in an  
 2011 appropriate self-help group, such as Narcotics Anonymous,  
 2012 Alcoholics Anonymous, or Cocaine Anonymous, if available.

2013 (d) If the person has been previously convicted of three  
 2014 felony violations of s. 893.13(2)(a)2., (5)(b), or (6)(a),  
 2015 adjudication may not be withheld and the offender may be placed  
 2016 on probation for not less than 30 months, as a condition of  
 2017 which the court shall require the offender to reside at a  
 2018 community residential drug punishment center for 200 days. The  
 2019 offender must comply with all rules and regulations of the  
 2020 center and must pay a fee for the costs of room and board and  
 2021 residential supervision. Placement of an offender into a  
 2022 community residential drug punishment center is subject to  
 2023 budgetary considerations and availability of bed space. If the  
 2024 court requires the offender to reside at a community residential  
 2025 drug punishment center, the court shall also require the  
 2026 offender to comply with one or more of the other following terms  
 2027 and conditions:

2028           1. Pay a fine of not less than \$1,500 nor more than \$5,000  
 2029 pursuant to s. 775.083(1)(c).

2030           2. Enter, regularly attend, and successfully complete a  
 2031 prescribed substance abuse treatment program provided by a  
 2032 treatment resource licensed pursuant to chapter 397 or by a  
 2033 hospital licensed pursuant to chapter 395, as specified by the  
 2034 court. In addition, the court may refer the offender to a  
 2035 licensed agency for substance abuse evaluation and, if  
 2036 appropriate, substance abuse treatment subject to the ability of  
 2037 the offender to pay for such evaluation and treatment. If such  
 2038 referral is made, the offender must comply and must pay for the  
 2039 reasonable cost of the evaluation and treatment.

2040           3. Perform at least 200 hours of public service.

2041           4. Submit to routine and random drug testing which may be  
 2042 conducted during the probationary period, with the reasonable  
 2043 costs thereof borne by the offender.

2044           5. Participate, at his or her own expense, in an  
 2045 appropriate self-help group, such as Narcotics Anonymous,  
 2046 Alcoholics Anonymous, or Cocaine Anonymous, if available.

2047           (e) If the person has been previously convicted of four  
 2048 felony violations of s. 893.13(2)(a)2., (5)(b), or (6)(a),  
 2049 adjudication may not be withheld and the offender may be placed  
 2050 on probation for not less than 36 months, as a condition of  
 2051 which the court shall require the offender to reside at a  
 2052 community residential drug punishment center for 360 days. The  
 2053 offender must comply with all rules and regulations of the  
 2054 center and must pay a fee for the costs of room and board and  
 2055 residential supervision. Placement of an offender into a

2056 community residential drug punishment center is subject to  
 2057 budgetary considerations and availability of bed space. If the  
 2058 court requires the offender to reside at a community residential  
 2059 drug punishment center, the court shall also require the  
 2060 offender to comply with one or more of the other following terms  
 2061 and conditions:

2062 1. Pay a fine of not less than \$2,000 nor more than \$5,000  
 2063 pursuant to s. 775.083(1)(c).

2064 2. Enter, regularly attend, and successfully complete a  
 2065 prescribed substance abuse treatment program provided by a  
 2066 treatment resource licensed pursuant to chapter 397 or by a  
 2067 hospital licensed pursuant to chapter 395, as specified by the  
 2068 court. In addition, the court may refer the offender to a  
 2069 licensed agency for substance abuse evaluation and, if  
 2070 appropriate, substance abuse treatment subject to the ability of  
 2071 the offender to pay for such evaluation and treatment. If such  
 2072 referral is made, the offender must comply and must pay for the  
 2073 reasonable cost of the evaluation and treatment.

2074 3. Perform at least 250 hours of public service.

2075 4. Submit to routine and random drug testing which may be  
 2076 conducted during the probationary period, with the reasonable  
 2077 costs thereof borne by the offender.

2078 5. Participate, at his or her own expense, in an  
 2079 appropriate self-help group, such as Narcotics Anonymous,  
 2080 Alcoholics Anonymous, or Cocaine Anonymous, if available.

2081 (f) An offender who violates probation imposed pursuant to  
 2082 this section shall be sentenced in accordance with s. 921.002.

HB 1347

2005

2083           Section 25. This act shall take effect July 1, 2005, and  
2084 shall apply to offenses committed on or after that date.