

CHAMBER ACTION

1 The Justice Appropriations Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to controlled substances; amending s.
7 893.033, F.S.; revising the definition of "listed
8 precursor chemical" to include benzaldehyde, hydriodic
9 acid, and nitroethane, and to remove anhydrous ammonia and
10 benzyl chloride; revising the definition of "listed
11 essential chemical" to include anhydrous ammonia, benzyl
12 chloride, hydrochloric gas, and iodine; amending s.
13 893.13, F.S.; prohibiting a person from manufacturing
14 methamphetamine or phencyclidine or from possessing listed
15 chemicals with the intent to manufacture methamphetamine
16 or phencyclidine; providing criminal penalties; providing
17 for minimum terms of imprisonment in circumstances where a
18 person commits or attempts to commit such crime in a
19 structure or conveyance where a child is present and in
20 circumstances where a child suffers great bodily harm;
21 providing criminal penalties in circumstances where a
22 person fails to store anhydrous ammonia as required;
23 providing criminal penalties in circumstances involving a

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24 violation of ch. 893, F.S., which results in serious
25 injury to a state, local, or federal law enforcement
26 officer; increasing the criminal penalties if such
27 violation results in death or great bodily harm to such
28 officer; prohibiting a person from selling, manufacturing,
29 delivering, or attempting to sell, manufacture, or deliver
30 a controlled substance in, on, or within 1,000 feet of an
31 assisted living facility; providing criminal penalties for
32 such offense; specifying minimum terms of imprisonment for
33 such offense; amending s. 893.135, F.S.; including
34 offenses involving pseudoephedrine within the offense of
35 trafficking in amphetamine; providing criminal penalties;
36 providing that it is a capital offense to manufacture or
37 import pseudoephedrine knowing that the probable result
38 will be death; amending s. 893.149, F.S., relating to the
39 prohibition against possessing listed chemicals; providing
40 an exception to such prohibition for a person authorized
41 to clean up or dispose of hazardous waste or toxic
42 substances pursuant to ch. 893, F.S.; providing that
43 damages arising out of the unlawful possession of, storage
44 of, or tampering with a listed chemical is the sole
45 responsibility of the person unlawfully possessing,
46 storing, or tampering with the chemical; providing that
47 the lawful owner, installer, maintainer, designer,
48 manufacturer, possessor, or seller is immune from
49 liability in the absence of negligent misconduct or
50 failure to abide by laws governing possession or storage;
51 creating s. 893.1495, F.S.; limiting retail sales of

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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52 products containing more than a specified amount of
53 ephedrine or related compounds in a single transaction;
54 providing restrictions on the retail display of products
55 containing ephedrine or related compounds; requiring
56 specified training for employees of retail outlets who
57 engage in the retail sale of such products; providing that
58 local regulations passed after a specified date that are
59 more restrictive than this act are superseded; providing
60 criminal penalties; reenacting s. 893.02(12), F.S.,
61 relating to the definition of the term "listed chemical,"
62 for the purpose of incorporating the amendment to s.
63 893.033, F.S., in a reference thereto; reenacting ss.
64 435.07(2), 921.187(1), 938.25, and 948.034(1) and (2),
65 F.S., relating to exemptions from disqualification for
66 certain employment, disposition and sentencing
67 alternatives, the assessment of fees for purposes of
68 funding the Operating Trust Fund of the Department of Law
69 Enforcement, and the terms and conditions of probation,
70 respectively, for the purpose of incorporating the
71 amendment to s. 893.13, F.S., in references thereto;
72 reenacting ss. 311.12(3)(c), 414.095(1), 775.087(2)(a) and
73 (3)(a), 782.04(1)(a), (3)(a), and (4)(a), 893.13(8)(d),
74 907.041(4)(c), 921.0022(3)(g), (h), and (i), 921.0024(1),
75 921.142(2), 943.0585, and 943.059, F.S., relating to
76 seaport security standards, eligibility for temporary cash
77 assistance, mandatory sentencing in circumstances
78 involving the possession of use of a weapon, specified
79 offenses that may be charged as murder if death results,

80 | prohibited acts by prescribing practitioners,
 81 | circumstances in which the court may order pretrial
 82 | detention, the offense severity ranking chart of the
 83 | Criminal Punishment Code, worksheet computations and
 84 | scoresheets under the Criminal Punishment Code, sentencing
 85 | in capital drug trafficking cases, limitations on
 86 | circumstances in which a criminal history record may be
 87 | expunged, and limitations on circumstances in which a
 88 | criminal history record may be sealed, respectively, for
 89 | the purpose of incorporating the amendment to s. 895.135,
 90 | F.S., in references thereto; reenacting ss. 397.451(4)(b)
 91 | and (6), 772.12(2)(a), 893.1351(1), and 903.133, F.S.,
 92 | relating to background checks of service provider
 93 | personnel, the Drug Dealer Liability Act, the prohibition
 94 | against leasing or renting for the purpose of trafficking
 95 | in a controlled substance, and the limitation of admission
 96 | to bail, respectively, for the purpose of incorporating
 97 | the amendments to ss. 893.13 and 893.135, F.S., in
 98 | references thereto; providing applicability; providing an
 99 | effective date.

100 |
 101 | Be It Enacted by the Legislature of the State of Florida:
 102 |

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.

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- 136 | (s) Nitroethane.
- 137 | ~~(t)~~~~(s)~~ Norpseudophedrine.
- 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)

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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.--

169 (1)

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

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

182 2. The commission of the crime causes any child under 16
 183 years of age to suffer great bodily harm, the person commits a
 184 felony of the first degree, punishable as provided in s.
 185 775.082, s. 775.083, or s. 775.084. In addition, the defendant
 186 must be sentenced to a minimum term of imprisonment of 10
 187 calendar years.

188 (h) Except as authorized by this chapter, it is unlawful
 189 for any person to sell, manufacture, or deliver, or possess with
 190 intent to sell, manufacture, or deliver, a controlled substance
 191 in, on, or within 1,000 feet of the real property comprising an

192 assisted living facility, as that term is used in chapter 400.
 193 Any person who violates this paragraph with respect to:
 194 1. A controlled substance named or described in s.
 195 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 196 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

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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:

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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.

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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.

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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 Retail sale of ephedrine and related compounds.--

348 (1) No person shall knowingly deliver in any single retail
 349 over-the-counter sale any number of packages of any drug
 350 containing a sole active ingredient that contains a combined
 351 total of 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 retail over-the-counter sale, regardless of weight,
 355 containing any such sole active ingredient.

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356 (2) No person shall knowingly display and offer for retail
357 sale packages of any drug having a sole active ingredient of
358 ephedrine, pseudoephedrine, phenylpropanolamine, or any of their
359 salts or optical isomers other than behind a checkout counter
360 where the public is not permitted or other such location that is
361 not otherwise accessible to the general public.

362 (3) No person who is the owner or primary operator of a
363 retail outlet where ephedrine, pseudoephedrine, or
364 phenylpropanolamine products are available for sale shall
365 knowingly allow an employee to engage in the retail sale of such
366 products unless the employee has completed an employee training
367 program that shall include, at a minimum, basic instruction on
368 state and federal regulations relating to the sale and
369 distribution of such products.

370 (4) The requirements of this section relating to the
371 marketing, sale, or distribution of ephedrine, pseudoephedrine,
372 or phenylpropanolamine products shall supersede any local
373 ordinance or regulation passed by a county, municipality, or
374 other local governmental authority.

375 (5) Any individual who violates subsection (1), subsection
376 (2), or subsection (3) commits:

377 (a) For a first offense, a misdemeanor of the second
378 degree, punishable as provided in s. 775.083.

379 (b) For a second offense, a misdemeanor of the first
380 degree, punishable as provided in s. 775.082 or s. 775.083.

381 (c) For a third or subsequent offense, a felony of the
382 third degree, punishable as provided in s. 775.082, s. 775.083,
383 or s. 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

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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

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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;

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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;

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- 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.

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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;

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- 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

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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,

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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

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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

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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,
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

782

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

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at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

787

327.35(3)(c)2. 3rd Vessel BUI resulting in serious bodily injury.

788

402.319(2) 2nd Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.

789

409.920(2) 3rd Medicaid provider fraud.

790

456.065(2) 3rd Practicing a health care profession without a license.

791

456.065(2) 2nd Practicing a health care profession without a license which results in serious bodily injury.

792

458.327(1) 3rd Practicing medicine without a

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793			license.
	459.013(1)	3rd	Practicing osteopathic medicine without a license.
794			
	460.411(1)	3rd	Practicing chiropractic medicine without a license.
795			
	461.012(1)	3rd	Practicing podiatric medicine without a license.
796			
	462.17	3rd	Practicing naturopathy without a license.
797			
	463.015(1)	3rd	Practicing optometry without a license.
798			
	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

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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.

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

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809	560.125(5)(a)	3rd	\$300 but less than \$20,000 by money transmitter.
810	655.50(10)(b)1.	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
811	782.051(3)	2nd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
812	782.07(1)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
813	782.071	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
			Killing of human being or viable fetus by the operation of a motor vehicle in a reckless

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manner (vehicular homicide).

814

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

815

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

816

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

817

784.045(1)(b) 2nd Aggravated battery; perpetrator aware victim pregnant.

818

784.048(4) 3rd Aggravated stalking; violation of injunction or court order.

819

784.048(7) 3rd Aggravated stalking; violation of court order.

820

784.07(2)(d) 1st Aggravated battery on law enforcement officer.

821

784.074(1)(a) 1st Aggravated battery on sexually

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violent predators facility
staff.

822

784.08(2)(a) 1st Aggravated battery on a person
65 years of age or older.

823

784.081(1) 1st Aggravated battery on specified
official or employee.

824

784.082(1) 1st 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

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830	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
831	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
832	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
833	796.03	2nd	Procuring any person under 16 years for prostitution.
834	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
835	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.

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836	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
837	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
838	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
839	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
840	812.014(2)(a)1.	1st	Property stolen, valued at \$100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
841	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
842	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
	812.0145(2)(a)	1st	Theft from person 65 years of

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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 property.

844

812.131(2)(a) 2nd 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) & 1st Making false entries of material
(3)(b) fact or false statements regarding property values relating to the solvency of an

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			insuring entity which are a significant cause of the insolvency of that entity.
850	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
851	825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
852	827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
853	827.04(3)	3rd	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			

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857	838.016	2nd	Unlawful compensation or reward for official behavior.
858	838.021(3)(a)	2nd	Unlawful harm to a public servant.
859	838.22	2nd	Bid tampering.
860	872.06	2nd	Abuse of a dead human body.
861	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.
	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious

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			services or a specified business site.
862	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
863	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
864	893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
865	893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
866	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
867	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
868			

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869	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
870	893.135(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
871	893.135(1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
872	893.135(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
873	893.135(1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
874	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration

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

875

(h) LEVEL 8

876

316.193(3)(c)3.a. 2nd DUI manslaughter.

877

316.1935(4)(b) 1st Aggravated fleeing or attempted
eluding with serious bodily
injury or death.

878

327.35(3)(c)3. 2nd Vessel BUI manslaughter.

879

499.0051(7) 1st Forgery of prescription or
legend drug labels.

880

499.0052 1st Trafficking in contraband legend
drugs.

881

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

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883	655.50(10)(b)2.	2nd	payment 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.
886	782.051(2)	1st	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft 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).
			Committing vehicular homicide

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888			and failing to render aid or give information.
	782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.
889			
	790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
890			
	794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
891			
	800.04(4)	2nd	Lewd or lascivious battery.
892			
	806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
893			
	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
894			
	810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
895			

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896	810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
897	812.014(2)(a)2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
898	812.13(2)(b)	1st	Robbery with a weapon.
899	812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
900	817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
901	825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.
902	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
	825.103(2)(a)	1st	Exploiting an elderly person or

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903			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.
906	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
907	860.16	1st	Aircraft piracy.
908	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).
909	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

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910	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
911	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
912	893.135(1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
913	893.135(1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
914	893.135(1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
915	893.135(1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
916	893.135(1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.

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917	893.135(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
918	893.135(1)(h)1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
919	893.135(1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
920	893.135(1)(k)2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
921	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
922	895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
	895.03(3)	1st	Conduct or participate in any

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923			enterprise through pattern of racketeering activity.
923	896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
924	896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.
925			(i) LEVEL 9
926	316.193(3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
927	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
928	499.0053	1st	Sale or purchase of contraband legend drugs resulting in great bodily harm.
929			

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930	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
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.
935	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to

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936	782.07(2)	1st	perpetrate a felony enumerated in s. 782.04(3).
937	787.01(1)(a)1.	1st,PBL	Aggravated manslaughter of an elderly person or disabled adult.
938	787.01(1)(a)2.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
939	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
940	787.02(3)(a)	1st	Kidnapping with intent to interfere with performance of any governmental or political function. False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
941			

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942	790.161	1st	Attempted capital destructive device offense.
943	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
944	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
945	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
946	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
947	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
948	800.04(5)(b)	1st	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.

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949	812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
950	812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
951	812.135(2)(b)	1st	Home-invasion robbery with weapon.
952	817.568(7)	2nd,PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
953	827.03(2)	1st	Aggravated child abuse.
954	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
955	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
	859.01	1st	Poisoning or introducing

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bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.

956

893.135 1st Attempted capital trafficking offense.

957

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

958

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

959

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

960

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

961

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

962

893.135(1)(f)1.c. 1st Trafficking in amphetamine, more

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than 200 grams.

963

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

964

893.135(1)(j)1.c. 1st Trafficking in 1,4-Butanediol, 10 kilograms or more.

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

Level	Sentence Points		Total
10	116	=	_____
9	92	=	_____
8	74	=	_____
7	56	=	_____
6	36	=	_____
5	28	=	_____
4	22	=	_____

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994	3	16	=	_____
995	2	10	=	_____
996	1	4	=	_____
997			Total	_____

Additional Offenses

	Level	Sentence Points		Counts	=	Total
1000	10	58	x	_____	=	_____
1001	9	46	x	_____	=	_____
1002	8	37	x	_____	=	_____
1003	7	28	x	_____	=	_____
1004	6	18	x	_____	=	_____
1005	5	5.4	x	_____	=	_____
1006	4	3.6	x	_____	=	_____
1007						

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3	2.4	x	_____	=	_____
2	1.2	x	_____	=	_____
1	0.7	x	_____	=	_____
M	0.2	x	_____	=	_____
					Total _____
			Victim Injury		
Level	Sentence		Number		Total
	Points				
2nd	240	x	_____	=	_____
degree					
murder-					
death					
Death	120	x	_____	=	_____
Severe	40	x	_____	=	_____
Moderate	18	x	_____	=	_____
Slight	4	x	_____	=	_____

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1033

Sexual	80	x	_____	=	_____
penetrati					
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	_____	=	_____

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1053

6	9	x	_____	=	_____
5	3.6	x	_____	=	_____
4	2.4	x	_____	=	_____
3	1.6	x	_____	=	_____
2	0.8	x	_____	=	_____
1	0.5	x	_____	=	_____
M	0.2	x	_____	=	_____

Total _____

TOTAL OFFENSE SCORE _____
 TOTAL PRIOR RECORD SCORE _____
 LEGAL STATUS _____
 COMMUNITY SANCTION VIOLATION _____
 PRIOR SERIOUS FELONY _____
 PRIOR CAPITAL FELONY _____
 FIREARM OR SEMIAUTOMATIC WEAPON _____
 SUBTOTAL _____
 PRISON RELEASEE REOFFENDER (no)(yes) _____

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1054 VIOLENT CAREER CRIMINAL (no)(yes)_____

1055 HABITUAL VIOLENT OFFENDER (no)(yes)_____

1056 HABITUAL OFFENDER (no)(yes)_____

1057 DRUG TRAFFICKER (no)(yes) (x multiplier)_____

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

(b) WORKSHEET KEY:

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

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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

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1110 jurisdiction, or would be a capital felony if the offense were
1111 committed in this state.

1112
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),

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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
 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

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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

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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.

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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

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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

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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

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1358 | arrests if the order to expunge does not articulate the
 1359 | intention of the court to expunge a record pertaining to more
 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:

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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).

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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.

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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.
 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

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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

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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:

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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

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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
 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

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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:

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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

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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

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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

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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:

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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

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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

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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.

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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.

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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.

1972 3. Perform at least 100 hours of public service.

1973 4. Submit to routine and random drug testing which may be
 1974 conducted during the probationary period, with the reasonable
 1975 costs thereof borne by the offender.

1976 5. Participate, at his or her own expense, in an
 1977 appropriate self-help group, such as Narcotics Anonymous,
 1978 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1979 (c) If the person has been previously convicted of two
 1980 felony violations of s. 893.13(2)(a)2., (5)(b), or (6)(a),
 1981 adjudication may not be withheld and the offender may be placed
 1982 on probation for not less than 24 months, as a condition of
 1983 which the court shall require the offender to reside at a
 1984 community residential drug punishment center for 120 days. The
 1985 offender must comply with all rules and regulations of the
 1986 center and must pay a fee for the costs of room and board and
 1987 residential supervision. Placement of an offender into a
 1988 community residential drug punishment center is subject to
 1989 budgetary considerations and availability of bed space. If the
 1990 court requires the offender to reside at a community residential
 1991 drug punishment center, the court shall also require the
 1992 offender to comply with one or more of the other following terms
 1993 and conditions:

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1994 1. Pay a fine of not less than \$1,000 nor more than \$5,000
1995 pursuant to s. 775.083(1)(c).

1996 2. Enter, regularly attend, and successfully complete a
1997 prescribed substance abuse treatment program provided by a
1998 treatment resource licensed pursuant to chapter 397 or by a
1999 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

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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.

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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.

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