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HB 1347, Engrossed 1

2005 Legislature

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

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

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29 | such offense; amending s. 893.135, F.S.; including
30 | offenses involving pseudoephedrine within the offense of
31 | trafficking in amphetamine; providing criminal penalties;
32 | providing that it is a capital offense to manufacture or
33 | import pseudoephedrine knowing that the probable result
34 | will be death; amending s. 893.149, F.S., relating to the
35 | prohibition against possessing listed chemicals; providing
36 | an exception to such prohibition for a person authorized
37 | to clean up or dispose of hazardous waste or toxic
38 | substances pursuant to ch. 893, F.S.; providing that
39 | damages arising out of the unlawful possession of, storage
40 | of, or tampering with a listed chemical is the sole
41 | responsibility of the person unlawfully possessing,
42 | storing, or tampering with the chemical; providing that
43 | the lawful owner, installer, maintainer, designer,
44 | manufacturer, possessor, or seller is immune from
45 | liability in the absence of negligent misconduct or
46 | failure to abide by laws governing possession or storage;
47 | creating s. 893.1495, F.S.; limiting retail sales of
48 | products containing more than a specified amount of
49 | ephedrine or related compounds in a single transaction;
50 | providing restrictions on the retail display of products
51 | containing ephedrine or related compounds; requiring
52 | specified training for employees of retail outlets who
53 | engage in the retail sale of such products; providing that
54 | local regulations passed after a specified date that are
55 | more restrictive than this act are superseded; providing
56 | criminal penalties; reenacting s. 893.02(12), F.S.,

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

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85 | the purpose of incorporating the amendment to s. 895.135,
 86 | F.S., in references thereto; reenacting ss. 397.451(4) (b)
 87 | and (6), 772.12(2) (a), 893.1351(1), and 903.133, F.S.,
 88 | relating to background checks of service provider
 89 | personnel, the Drug Dealer Liability Act, the prohibition
 90 | against leasing or renting for the purpose of trafficking
 91 | in a controlled substance, and the limitation of admission
 92 | to bail, respectively, for the purpose of incorporating
 93 | the amendments to ss. 893.13 and 893.135, F.S., in
 94 | references thereto; providing applicability; providing an
 95 | effective date.

96 |

97 | Be It Enacted by the Legislature of the State of Florida:

98 |

99 | Section 1. Section 893.033, Florida Statutes, is amended
 100 | to read:

101 | 893.033 Listed chemicals.--The chemicals listed in this
 102 | section are included by whatever official, common, usual,
 103 | chemical, or trade name designated.

104 | (1) PRECURSOR CHEMICALS.--The term "listed precursor
 105 | chemical" means a chemical that may be used in manufacturing a
 106 | controlled substance in violation of this chapter and is
 107 | critical to the creation of the controlled substance, and such
 108 | term includes any salt, optical isomer, or salt of an optical
 109 | isomer, whenever the existence of such salt, optical isomer, or
 110 | salt of optical isomer is possible within the specific chemical
 111 | designation. The following are "listed precursor chemicals":

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

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

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

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

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

164 893.13 Prohibited acts; penalties.--

- 165 (1)
- 166 (g) Except as authorized by this chapter, it is unlawful
 167 for any person to manufacture methamphetamine or phencyclidine,
 168 or possess any listed chemical as defined in s. 893.033 in

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169 violation of s. 893.149 and with intent to manufacture
 170 methamphetamine or phencyclidine. If any person violates this
 171 paragraph and:

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

178 2. The commission of the crime causes any child under 16
 179 years of age to suffer great bodily harm, the person commits a
 180 felony of the first degree, punishable as provided in s.
 181 775.082, s. 775.083, or s. 775.084. In addition, the defendant
 182 must be sentenced to a minimum term of imprisonment of 10
 183 calendar years.

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

190 1. A controlled substance named or described in s.
 191 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 192 commits a felony of the first degree, punishable as provided in
 193 s. 775.082, s. 775.083, or s. 775.084.

194 2. A controlled substance named or described in s.
 195 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 196 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of

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197 | the second degree, punishable as provided in s. 775.082, s.
 198 | 775.083, or s. 775.084.

199 | (7) (a) It is unlawful for any person:

200 | 1. To distribute or dispense a controlled substance in
 201 | violation of this chapter.

202 | 2. To refuse or fail to make, keep, or furnish any record,
 203 | notification, order form, statement, invoice, or information
 204 | required under this chapter.

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

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

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

216 | 6. To use to his or her own personal advantage, or to
 217 | reveal, any information obtained in enforcement of this chapter
 218 | except in a prosecution or administrative hearing for a
 219 | violation of this chapter.

220 | 7. To possess a prescription form which has not been
 221 | completed and signed by the practitioner whose name appears
 222 | printed thereon, unless the person is that practitioner, is an
 223 | agent or employee of that practitioner, is a pharmacist, or is a

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224 supplier of prescription forms who is authorized by that
 225 practitioner to possess those forms.

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

232 9. To acquire or obtain, or attempt to acquire or obtain,
 233 possession of a controlled substance by misrepresentation,
 234 fraud, forgery, deception, or subterfuge.

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

237 11. To furnish false or fraudulent material information
 238 in, or omit any material information from, any report or other
 239 document required to be kept or filed under this chapter or any
 240 record required to be kept by this chapter.

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

245 (c) Any person who violates the provisions of
 246 subparagraphs (a)8.-12. ~~(a)8.-11.~~ commits a felony of the third
 247 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 248 775.084.

249 (8)

250 (d) Notwithstanding paragraph (c), if a prescribing
 251 practitioner has violated paragraph (a) and received \$1,000 or

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252 | more in payment for writing one or more prescriptions or, in the
 253 | case of a prescription written for a controlled substance
 254 | described in s. 893.135, has written one or more prescriptions
 255 | for a quantity of a controlled substance which, individually or
 256 | in the aggregate, meets the threshold for the offense of
 257 | trafficking in a controlled substance under s. 893.15, the
 258 | violation is reclassified as a felony of the second degree and
 259 | ranked in level 4 of the Criminal Punishment Code.

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

268 | Section 3. Paragraph (f) of subsection (1) of section
 269 | 893.135, Florida Statutes, is amended to read:

270 | 893.135 Trafficking; mandatory sentences; suspension or
 271 | reduction of sentences; conspiracy to engage in trafficking.--

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

274 | (f)1. Any person who knowingly sells, purchases,
 275 | manufactures, delivers, or brings into this state, or who is
 276 | knowingly in actual or constructive possession of, 14 grams or
 277 | more of amphetamine, as described in s. 893.03(2)(c)2., or
 278 | methamphetamine, as described in s. 893.03(2)(c)4., or of any
 279 | mixture containing amphetamine or methamphetamine, or

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

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308 921.142. Any person sentenced for a capital felony under this
 309 paragraph shall also be sentenced to pay the maximum fine
 310 provided under subparagraph 1.

311 Section 4. Section 893.149, Florida Statutes, is amended
 312 to read:

313 893.149 Unlawful possession of listed chemical.--

314 (1) It is unlawful for any person to knowingly or
 315 intentionally:

316 (a) Possess a listed chemical with the intent to
 317 unlawfully manufacture a controlled substance;

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

321 (2) Any person who violates this section commits ~~is guilty~~
 322 ~~of~~ a felony of the second degree, punishable as provided in s.
 323 775.082, s. 775.083, or s. 775.084.

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

328 (4) Any damages arising out of the unlawful possession of,
 329 storage of, or tampering with a listed chemical, as defined in
 330 s. 893.033, shall be the sole responsibility of the person or
 331 persons unlawfully possessing, storing, or tampering with the
 332 listed chemical. In no case shall liability for damages arising
 333 out of the unlawful possession of, storage of, or tampering with
 334 a listed chemical extend to the lawful owner, installer,
 335 maintainer, designer, manufacturer, possessor, or seller of the

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336 listed chemical, unless such damages arise out of the acts or
 337 omissions of the owner, installer, maintainer, designer,
 338 manufacturer, possessor, or seller which constitute negligent
 339 misconduct or failure to abide by the laws regarding the
 340 possession or storage of a listed chemical.

341 Section 5. Section 893.1495, Florida Statutes, is created
 342 to read:

343 893.1495 Retail sale of ephedrine and related compounds.--

344 (1) No person shall knowingly deliver in any single retail
 345 over-the-counter sale any number of packages of any drug
 346 containing a sole active ingredient that contains a combined
 347 total of more than 9 base grams of ephedrine, pseudoephedrine,
 348 phenylpropanolamine, or any of their salts, optical isomers, or
 349 salts of optical isomers, or more than three packages in any
 350 single retail over-the-counter sale, regardless of weight,
 351 containing any such sole active ingredient.

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

358 (3) No person who is the owner or primary operator of a
 359 retail outlet where ephedrine, pseudoephedrine, or
 360 phenylpropanolamine products are available for sale shall
 361 knowingly allow an employee to engage in the retail sale of such
 362 products unless the employee has completed an employee training
 363 program that shall include, at a minimum, basic instruction on

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364 state and federal regulations relating to the sale and
 365 distribution of such products.

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

371 (5) Any individual who violates subsection (1), subsection
 372 (2), or subsection (3) commits:

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

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

377 (c) For a third or subsequent offense, a felony of the
 378 third degree, punishable as provided in s. 775.082, s. 775.083,
 379 or s. 775.084.

380 Section 6. For the purpose of incorporating the amendment
 381 to section 893.135, Florida Statutes, in a reference thereto,
 382 paragraph (c) of subsection (3) of section 311.12, Florida
 383 Statutes, is reenacted to read:

384 311.12 Seaport security standards.--

385 (3)

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

389 1. Any person who has within the past 7 years been
 390 convicted, regardless of whether adjudication was withheld, for
 391 a forcible felony as defined in s. 776.08; an act of terrorism

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392 as defined in s. 775.30; planting of a hoax bomb as provided in
393 s. 790.165; any violation involving the manufacture, possession,
394 sale, delivery, display, use, or attempted or threatened use of
395 a weapon of mass destruction or hoax weapon of mass destruction
396 as provided in s. 790.166; dealing in stolen property; any
397 violation of s. 893.135; any violation involving the sale,
398 manufacturing, delivery, or possession with intent to sell,
399 manufacture, or deliver a controlled substance; burglary;
400 robbery; any felony violation of s. 812.014; any violation of s.
401 790.07; any crime an element of which includes use or possession
402 of a firearm; any conviction for any similar offenses under the
403 laws of another jurisdiction; or conviction for conspiracy to
404 commit any of the listed offenses shall not be qualified for
405 initial employment within or regular access to a seaport or
406 restricted access area; and

407 2. Any person who has at any time been convicted for any
408 of the listed offenses shall not be qualified for initial
409 employment within or authorized regular access to a seaport or
410 restricted access area unless, after release from incarceration
411 and any supervision imposed as a sentence, the person remained
412 free from a subsequent conviction, regardless of whether
413 adjudication was withheld, for any of the listed offenses for a
414 period of at least 7 years prior to the employment or access
415 date under consideration.

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

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420 397.451 Background checks of service provider personnel.--

421 (4) EXEMPTIONS FROM DISQUALIFICATION.--

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

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

441 Section 8. For the purpose of incorporating the amendment
 442 to section 893.135, Florida Statutes, in a reference thereto,
 443 subsection (1) of section 414.095, Florida Statutes, is
 444 reenacted to read:

445 414.095 Determining eligibility for temporary cash
 446 assistance.--

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

469 Section 9. For the purpose of incorporating the amendment
470 to section 893.13, Florida Statutes, in a reference thereto,
471 subsection (2) of section 435.07, Florida Statutes, is reenacted
472 to read:

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473 | 435.07 Exemptions from disqualification.--Unless otherwise
 474 | provided by law, the provisions of this section shall apply to
 475 | exemptions from disqualification.

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

482 | Section 10. For the purpose of incorporating the amendment
 483 | to sections 893.13 and 893.135, Florida Statutes, in references
 484 | thereto, paragraph (a) of subsection (2) of section 772.12,
 485 | Florida Statutes, is reenacted to read:

486 | 772.12 Drug Dealer Liability Act.--

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

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

- 495 | 1. A violation of s. 893.13, except for a violation of s.
- 496 | 893.13(2)(a) or (b), (3), (5), (6)(a), (b), or (c), (7); or
- 497 | 2. A violation of s. 893.135; and

498 | Section 11. For the purpose of incorporating the amendment
 499 | to section 893.135, Florida Statutes, in a reference thereto,
 500 | paragraph (a) of subsection (2) and paragraph (a) of subsection

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501 (3) and of section 775.087, Florida Statutes, are reenacted to
 502 read:

503 775.087 Possession or use of weapon; aggravated battery;
 504 felony reclassification; minimum sentence.--

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

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

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529 | phencyclidine, capital importation of phencyclidine, trafficking
 530 | in methaqualone, capital importation of methaqualone,
 531 | trafficking in amphetamine, capital importation of amphetamine,
 532 | trafficking in flunitrazepam, trafficking in gamma-
 533 | hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,
 534 | trafficking in Phenethylamines, or other violation of s.
 535 | 893.135(1); or

536 | r. Possession of a firearm by a felon
 537 |

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

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

553 | 3. Any person who is convicted of a felony or an attempt
 554 | to commit a felony listed in sub-subparagraphs (a)1.a.-q.,
 555 | regardless of whether the use of a weapon is an element of the
 556 | felony, and during the course of the commission of the felony

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557 | such person discharged a "firearm" or "destructive device" as
 558 | defined in s. 790.001 and, as the result of the discharge, death
 559 | or great bodily harm was inflicted upon any person, the
 560 | convicted person shall be sentenced to a minimum term of
 561 | imprisonment of not less than 25 years and not more than a term
 562 | of imprisonment of life in prison.

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

- 566 | a. Murder;
- 567 | b. Sexual battery;
- 568 | c. Robbery;
- 569 | d. Burglary;
- 570 | e. Arson;
- 571 | f. Aggravated assault;
- 572 | g. Aggravated battery;
- 573 | h. Kidnapping;
- 574 | i. Escape;
- 575 | j. Sale, manufacture, delivery, or intent to sell,
 576 | manufacture, or deliver any controlled substance;
- 577 | k. Aircraft piracy;
- 578 | l. Aggravated child abuse;
- 579 | m. Aggravated abuse of an elderly person or disabled
 580 | adult;
- 581 | n. Unlawful throwing, placing, or discharging of a
 582 | destructive device or bomb;
- 583 | o. Carjacking;
- 584 | p. Home-invasion robbery;

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585 | q. Aggravated stalking; or
 586 | r. Trafficking in cannabis, trafficking in cocaine,
 587 | capital importation of cocaine, trafficking in illegal drugs,
 588 | capital importation of illegal drugs, trafficking in
 589 | phencyclidine, capital importation of phencyclidine, trafficking
 590 | in methaqualone, capital importation of methaqualone,
 591 | trafficking in amphetamine, capital importation of amphetamine,
 592 | trafficking in flunitrazepam, trafficking in gamma-
 593 | hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,
 594 | trafficking in Phenethylamines, or other violation of s.
 595 | 893.135(1);

596 |
 597 | and during the commission of the offense, such person possessed
 598 | a semiautomatic firearm and its high-capacity detachable box
 599 | magazine or a machine gun as defined in s. 790.001, shall be
 600 | sentenced to a minimum term of imprisonment of 15 years.

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

608 | 3. Any person who is convicted of a felony or an attempt
 609 | to commit a felony listed in subparagraph (a)1., regardless of
 610 | whether the use of a weapon is an element of the felony, and
 611 | during the course of the commission of the felony such person
 612 | discharged a semiautomatic firearm and its high-capacity box

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613 magazine or a "machine gun" as defined in s. 790.001 and, as the
 614 result of the discharge, death or great bodily harm was
 615 inflicted upon any person, the convicted person shall be
 616 sentenced to a minimum term of imprisonment of not less than 25
 617 years and not more than a term of imprisonment of life in
 618 prison.

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

624 782.04 Murder.--

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

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

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

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

631 b. Arson,

632 c. Sexual battery,

633 d. Robbery,

634 e. Burglary,

635 f. Kidnapping,

636 g. Escape,

637 h. Aggravated child abuse,

638 i. Aggravated abuse of an elderly person or disabled
 639 adult,

640 j. Aircraft piracy,

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

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669 | not exceeding life or as provided in s. 775.082, s. 775.083, or
 670 | s. 775.084.

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

675 | (a) Trafficking offense prohibited by s. 893.135(1),
 676 |
 677 | is murder in the third degree and constitutes a felony of the
 678 | second degree, punishable as provided in s. 775.082, s. 775.083,
 679 | or s. 775.084.

680 | Section 13. For the purpose of incorporating the amendment
 681 | to section 893.033, Florida Statutes, in a reference thereto,
 682 | subsection (12) of section 893.02, Florida Statutes, is
 683 | reenacted to read:

684 | 893.02 Definitions.--The following words and phrases as
 685 | used in this chapter shall have the following meanings, unless
 686 | the context otherwise requires:

687 | (12) "Listed chemical" means any precursor chemical or
 688 | essential chemical named or described in s. 893.033.

689 | Section 14. For the purpose of incorporating the amendment
 690 | to sections 893.13 and 893.135, Florida Statutes, in references
 691 | thereto, subsection (1) of section 893.1351, Florida Statutes,
 692 | is reenacted to read:

693 | 893.1351 Lease or rent for the purpose of trafficking in a
 694 | controlled substance.--

695 | (1) A person may not lease or rent any place, structure,
 696 | or part thereof, trailer, or other conveyance, with the

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697 | knowledge that such place, structure, trailer, or conveyance
698 | will be used for the purpose of trafficking in a controlled
699 | substance, as provided in s. 893.135, or the sale of a
700 | controlled substance, as provided in s. 893.13.

701 | Section 15. For the purpose of incorporating the amendment
702 | to sections 893.13 and 893.135, Florida Statutes, in references
703 | thereto, section 903.133, Florida Statutes, is reenacted to
704 | read:

705 | 903.133 Bail on appeal; prohibited for certain felony
706 | convictions.--Notwithstanding the provisions of s. 903.132, no
707 | person adjudged guilty of a felony of the first degree for a
708 | violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.
709 | 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a
710 | violation of s. 794.011(2) or (3), shall be admitted to bail
711 | pending review either by posttrial motion or appeal.

712 | Section 16. For the purpose of incorporating the amendment
713 | to section 893.135, Florida Statutes, in a reference thereto,
714 | paragraph (c) of subsection (4) of section 907.041, Florida
715 | Statutes, is reenacted to read:

716 | 907.041 Pretrial detention and release.--

717 | (4) PRETRIAL DETENTION.--

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

722 | 1. The defendant has previously violated conditions of
723 | release and that no further conditions of release are reasonably

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724 likely to assure the defendant's appearance at subsequent
 725 proceedings;

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

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

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

743 a. The defendant has previously been convicted of any
 744 crime under s. 316.193, or of any crime in any other state or
 745 territory of the United States that is substantially similar to
 746 any crime under s. 316.193;

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

749 c. The defendant has previously been found guilty of, or
 750 has had adjudication of guilt withheld for, driving while the

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751 | defendant's driver's license was suspended or revoked in
 752 | violation of s. 322.34;

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

761 | 6. The defendant was on probation, parole, or other
 762 | release pending completion of sentence or on pretrial release
 763 | for a dangerous crime at the time the current offense was
 764 | committed; or

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

771 | Section 17. For the purpose of incorporating the amendment
 772 | to section 893.135, Florida Statutes, in a reference thereto,
 773 | paragraphs (g), (h), and (i) of subsection (3) of section
 774 | 921.0022, Florida Statutes, are reenacted to read:

775 | 921.0022 Criminal Punishment Code; offense severity
 776 | ranking chart.--

777 | (3) OFFENSE SEVERITY RANKING CHART

778 |

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	Florida Statute	Felony Degree	Description
779			(g) LEVEL 7
780	316.027 (1) (b)	2nd	Accident involving death, failure to stop; leaving scene.
781	316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
782	316.1935 (3) (b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
783	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
784	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent

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disability, or death.

785

409.920 (2) 3rd Medicaid provider fraud.

786

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

787

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

788

458.327 (1) 3rd Practicing medicine without a license.

789

459.013 (1) 3rd Practicing osteopathic medicine without a license.

790

460.411 (1) 3rd Practicing chiropractic medicine without a license.

791

461.012 (1) 3rd Practicing podiatric medicine without a license.

792

462.17 3rd Practicing naturopathy without a license.

793

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794	463.015 (1)	3rd	Practicing optometry without a license.
795	464.016 (1)	3rd	Practicing nursing without a license.
796	465.015 (2)	3rd	Practicing pharmacy without a license.
797	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
798	467.201	3rd	Practicing midwifery without a license.
799	468.366	3rd	Delivering respiratory care services without a license.
800	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
801	483.901 (9)	3rd	Practicing medical physics without a license.
802	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.

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803	484.053	3rd	Dispensing hearing aids without a license.
804	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.
805	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
806	560.125 (5) (a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
807	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
	782.051 (3)	2nd	Attempted felony murder of a person by a person other than

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the perpetrator or the
 perpetrator of an attempted
 felony.

808

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

809

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

810

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

811

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

812

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

813

784.045(1)(b) 2nd Aggravated battery; perpetrator

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aware victim pregnant.

814

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

815

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

816

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

817

784.074 (1) (a) 1st Aggravated battery on sexually
 violent predators facility
 staff.

818

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

819

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

820

784.082 (1) 1st Aggravated battery by detained
 person on visitor or other
 detainee.

821

784.083 (1) 1st Aggravated battery on code
 inspector.

822

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823	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
824	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
825	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
826	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
827	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
828	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
	796.03	2nd	Procuring any person under 16

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years for prostitution.

829

800.04 (5) (c) 1. 2nd Lewd or lascivious molestation;
 victim less than 12 years of
 age; offender less than 18
 years.

830

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.

831

806.01 (2) 2nd Maliciously damage structure by
 fire or explosive.

832

810.02 (3) (a) 2nd Burglary of occupied dwelling;
 unarmed; no assault or battery.

833

810.02 (3) (b) 2nd Burglary of unoccupied dwelling;
 unarmed; no assault or battery.

834

810.02 (3) (d) 2nd Burglary of occupied conveyance;
 unarmed; no assault or battery.

835

812.014 (2) (a) 1. 1st Property stolen, valued at
 \$100,000 or more; property
 stolen while causing other

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836			property damage; 1st degree grand theft.
	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
837			
	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
838			
	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
839			
	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
840			
	812.131 (2) (a)	2nd	Robbery by sudden snatching.
841			
	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
842			
	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
843			

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844	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
845	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
846	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
847	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
848	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.
	827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or

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disfigurement.

849

827.04 (3) 3rd Impregnation of a child under 16 years of age by person 21 years of age or older.

850

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

851

838.015 2nd Bribery.

852

838.016 2nd Unlawful compensation or reward for official behavior.

853

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

854

838.22 2nd Bid tampering.

855

872.06 2nd Abuse of a dead human body.

856

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.)

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within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

857

893.13 (1) (e) 1. 1st

Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4., within 1,000 feet of property used for religious services or a specified business site.

858

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).

859

893.135 (1) (a) 1. 1st

Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

860

893.135 (1) (b) 1.a. 1st

Trafficking in cocaine, more than 28 grams, less than 200 grams.

861

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862	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
863	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
864	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
865	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
866	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
867	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5

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kilograms.

868

893.135 (1) (k) 2.a. 1st Trafficking in Phenethylamines,
 10 grams or more, less than 200
 grams.

869

896.101 (5) (a) 3rd Money laundering, financial
 transactions exceeding \$300 but
 less than \$20,000.

870

896.104 (4) (a) 1. 3rd Structuring transactions to
 evade reporting or registration
 requirements, financial
 transactions exceeding \$300 but
 less than \$20,000.

871

(h) LEVEL 8

872

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

873

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

874

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

875

499.0051 (7) 1st Forgery of prescription or

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876			legend drug labels.
	499.0052	1st	Trafficking in contraband legend drugs.
877			
	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.
878			
	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
879			
	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
880			
	777.03 (2) (a)	1st	Accessory after the fact, capital felony.
881			
	782.04 (4)	2nd	Killing of human without design when engaged in act or attempt

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of any felony other than arson,
 sexual battery, robbery,
 burglary, kidnapping, aircraft
 piracy, or unlawfully
 discharging bomb.

882

782.051 (2) 1st Attempted felony murder while
 perpetrating or attempting to
 perpetrate a felony not
 enumerated in s. 782.04 (3).

883

782.071 (1) (b) 1st Committing vehicular homicide
 and failing to render aid or
 give information.

884

782.072 (2) 1st Committing vessel homicide and
 failing to render aid or give
 information.

885

790.161 (3) 1st Discharging a destructive device
 which results in bodily harm or
 property damage.

886

794.011 (5) 2nd Sexual battery, victim 12 years
 or over, offender does not use
 physical force likely to cause
 serious injury.

887

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888	800.04 (4)	2nd	Lewd or lascivious battery.
889	806.01 (1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
890	810.02 (2) (a)	1st, PBL	Burglary with assault or battery.
891	810.02 (2) (b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.
892	810.02 (2) (c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
893	812.014 (2) (a) 2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
894	812.13 (2) (b)	1st	Robbery with a weapon.
895	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.

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896	817.568 (6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
897	825.102 (2)	2nd	Aggravated abuse of an elderly person or disabled adult.
898	825.1025 (2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
899	825.103 (2) (a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
900	837.02 (2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
901	837.021 (2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
	860.121 (2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great

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bodily harm.

902
 903
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 909

860.16	1st	Aircraft piracy.
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).
893.13 (2) (b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
893.13 (6) (c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
893.135 (1) (a) 2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1) (b) 1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1) (c) 1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.

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910	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
911	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
912	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
913	893.135 (1) (g) 1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
914	893.135 (1) (h) 1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
915	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
	893.135 (1) (k) 2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400

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grams.

916

895.03 (1) 1st Use or invest proceeds derived from pattern of racketeering activity.

917

895.03 (2) 1st Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.

918

895.03 (3) 1st Conduct or participate in any enterprise through pattern of racketeering activity.

919

896.101 (5) (b) 2nd Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.

920

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.

921

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(i) LEVEL 9

922	316.193 (3) (c) 3.b.	1st	DUI manslaughter; failing to render aid or give information.
923	327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
924	499.0053	1st	Sale or purchase of contraband legend drugs resulting in great bodily harm.
925	560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
926	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
927	655.50 (10) (b) 3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
928			

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929	775.0844	1st	Aggravated white collar crime.
930	782.04 (1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
931	782.04 (3)	1st, PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
932	782.051 (1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04 (3).
933	782.07 (2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
934	787.01 (1) (a) 1.	1st, PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
935	787.01 (1) (a) 2.	1st, PBL	Kidnapping with intent to commit or facilitate commission of any felony.

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936	787.01 (1) (a) 4.	1st, PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
937	787.02 (3) (a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
938	790.161	1st	Attempted capital destructive device offense.
939	790.166 (2)	1st, PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
940	794.011 (2)	1st	Attempted sexual battery; victim less than 12 years of age.
941	794.011 (2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.

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942	794.011 (4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
943	794.011 (8) (b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
944	800.04 (5) (b)	1st	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
945	812.13 (2) (a)	1st, PBL	Robbery with firearm or other deadly weapon.
946	812.133 (2) (a)	1st, PBL	Carjacking; firearm or other deadly weapon.
947	812.135 (2) (b)	1st	Home-invasion robbery with weapon.
948	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.

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949	827.03 (2)	1st	Aggravated child abuse.
950	847.0145 (1)	1st	Selling, or otherwise transferring custody or control, of a minor.
951	847.0145 (2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
952	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
953	893.135	1st	Attempted capital trafficking offense.
954	893.135 (1) (a) 3.	1st	Trafficking in cannabis, more than 10,000 lbs.
955	893.135 (1) (b) 1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.

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956	893.135 (1) (c) 1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
957	893.135 (1) (d) 1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
958	893.135 (1) (e) 1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
959	893.135 (1) (f) 1.c.	1st	Trafficking in amphetamine, more than 200 grams.
960	893.135 (1) (h) 1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
961	893.135 (1) (j) 1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
962	893.135 (1) (k) 2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
963	896.101 (5) (c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.

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

964
 965 Section 18. For the purpose of incorporating the amendment
 966 to section 893.135, Florida Statutes, in a reference thereto,
 967 subsection (1) of section 921.0024, Florida Statutes, is
 968 reenacted to read:

969 921.0024 Criminal Punishment Code; worksheet computations;
 970 scoresheets.--

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

973
 974 FLORIDA CRIMINAL PUNISHMENT CODE
 975 WORKSHEET

976
 977 OFFENSE SCORE

978
 979
 980 Primary Offense

Level	Sentence Points	=	Total
10	116	=	_____

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984	9	92	=	_____
985	8	74	=	_____
986	7	56	=	_____
987	6	36	=	_____
988	5	28	=	_____
989	4	22	=	_____
990	3	16	=	_____
991	2	10	=	_____
992	1	4	=	_____
993				Total _____
994	Additional Offenses			
995	Level	Sentence Points	Counts	Total
996	10	58	x _____	= _____
997				

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998	9	46	x	_____	=	_____
999	8	37	x	_____	=	_____
1000	7	28	x	_____	=	_____
1001	6	18	x	_____	=	_____
1002	5	5.4	x	_____	=	_____
1003	4	3.6	x	_____	=	_____
1004	3	2.4	x	_____	=	_____
1005	2	1.2	x	_____	=	_____
1006	1	0.7	x	_____	=	_____
1007	M	0.2	x	_____	=	_____
1008						Total _____
1009				Victim Injury		
1010	Level	Sentence Points		Number		Total
	2nd	240	x	_____	=	_____

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1011	degree murder- death					
	Death	120	x	_____	=	_____
1012						
	Severe	40	x	_____	=	_____
1013						
	Moderate	18	x	_____	=	_____
1014						
	Slight	4	x	_____	=	_____
1015						
	Sexual	80	x	_____	=	_____
	penetrati on					
1016						
	Sexual	40	x	_____	=	_____
	contact					
1017						
						Total _____
1018						
1019	Primary Offense + Additional Offenses + Victim Injury =					
1020	TOTAL OFFENSE SCORE					
1021						
1022	PRIOR RECORD SCORE					
1023						
1024	Prior Record					

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	Level	Sentence Points		Number	=	Total
1025	10	29	x	_____	=	_____
1026	9	23	x	_____	=	_____
1027	8	19	x	_____	=	_____
1028	7	14	x	_____	=	_____
1029	6	9	x	_____	=	_____
1030	5	3.6	x	_____	=	_____
1031	4	2.4	x	_____	=	_____
1032	3	1.6	x	_____	=	_____
1033	2	0.8	x	_____	=	_____
1034	1	0.5	x	_____	=	_____
1035	M	0.2	x	_____	=	_____
1036						
1037					Total	_____
1038						

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1039 TOTAL OFFENSE SCORE _____

1040 TOTAL PRIOR RECORD SCORE _____

1041

1042 LEGAL STATUS _____

1043 COMMUNITY SANCTION VIOLATION _____

1044 PRIOR SERIOUS FELONY _____

1045 PRIOR CAPITAL FELONY _____

1046 FIREARM OR SEMIAUTOMATIC WEAPON _____

1047 SUBTOTAL _____

1048

1049 PRISON RELEASEE REOFFENDER (no) (yes) _____

1050 VIOLENT CAREER CRIMINAL (no) (yes) _____

1051 HABITUAL VIOLENT OFFENDER (no) (yes) _____

1052 HABITUAL OFFENDER (no) (yes) _____

1053 DRUG TRAFFICKER (no) (yes) (x multiplier) _____

1054 LAW ENF. PROTECT. (no) (yes) (x multiplier) _____

1055 MOTOR VEHICLE THEFT (no) (yes) (x multiplier) _____

1056 CRIMINAL STREET GANG OFFENSE (no) (yes) (x multiplier)

1057 _____

1058 DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD

1059 (no) (yes) (x

1060 multiplier) _____

TOTAL SENTENCE POINTS _____

(b) WORKSHEET KEY:

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1066 | Legal status points are assessed when any form of legal status
 1067 | existed at the time the offender committed an offense before the
 1068 | court for sentencing. Four (4) sentence points are assessed for
 1069 | an offender's legal status.

1070 |
 1071 | Community sanction violation points are assessed when a
 1072 | community sanction violation is before the court for sentencing.
 1073 | Six (6) sentence points are assessed for each community sanction
 1074 | violation, and each successive community sanction violation;
 1075 | however, if the community sanction violation includes a new
 1076 | felony conviction before the sentencing court, twelve (12)
 1077 | community sanction violation points are assessed for such
 1078 | violation, and for each successive community sanction violation
 1079 | involving a new felony conviction. Multiple counts of community
 1080 | sanction violations before the sentencing court shall not be a
 1081 | basis for multiplying the assessment of community sanction
 1082 | violation points.

1083 |
 1084 | Prior serious felony points: If the offender has a primary
 1085 | offense or any additional offense ranked in level 8, level 9, or
 1086 | level 10, and one or more prior serious felonies, a single
 1087 | assessment of 30 points shall be added. For purposes of this
 1088 | section, a prior serious felony is an offense in the offender's
 1089 | prior record that is ranked in level 8, level 9, or level 10
 1090 | under s. 921.0022 or s. 921.0023 and for which the offender is
 1091 | serving a sentence of confinement, supervision, or other
 1092 | sanction or for which the offender's date of release from
 1093 | confinement, supervision, or other sanction, whichever is later,

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

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1094 | is within 3 years before the date the primary offense or any
 1095 | additional offense was committed.

1096 |
 1097 | Prior capital felony points: If the offender has one or more
 1098 | prior capital felonies in the offender's criminal record, points
 1099 | shall be added to the subtotal sentence points of the offender
 1100 | equal to twice the number of points the offender receives for
 1101 | the primary offense and any additional offense. A prior capital
 1102 | felony in the offender's criminal record is a previous capital
 1103 | felony offense for which the offender has entered a plea of nolo
 1104 | contendere or guilty or has been found guilty; or a felony in
 1105 | another jurisdiction which is a capital felony in that
 1106 | jurisdiction, or would be a capital felony if the offense were
 1107 | committed in this state.

1108 |
 1109 | Possession of a firearm, semiautomatic firearm, or machine gun:
 1110 | If the offender is convicted of committing or attempting to
 1111 | commit any felony other than those enumerated in s. 775.087(2)
 1112 | while having in his or her possession: a firearm as defined in
 1113 | s. 790.001(6), an additional 18 sentence points are assessed; or
 1114 | if the offender is convicted of committing or attempting to
 1115 | commit any felony other than those enumerated in s. 775.087(3)
 1116 | while having in his or her possession a semiautomatic firearm as
 1117 | defined in s. 775.087(3) or a machine gun as defined in s.
 1118 | 790.001(9), an additional 25 sentence points are assessed.

1119 |
 1120 | Sentencing multipliers:
 1121 |

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1122 Drug trafficking: If the primary offense is drug trafficking
 1123 under s. 893.135, the subtotal sentence points are multiplied,
 1124 at the discretion of the court, for a level 7 or level 8
 1125 offense, by 1.5. The state attorney may move the sentencing
 1126 court to reduce or suspend the sentence of a person convicted of
 1127 a level 7 or level 8 offense, if the offender provides
 1128 substantial assistance as described in s. 893.135(4).

1129
 1130 Law enforcement protection: If the primary offense is a
 1131 violation of the Law Enforcement Protection Act under s.
 1132 775.0823(2), the subtotal sentence points are multiplied by 2.5.
 1133 If the primary offense is a violation of s. 775.0823(3), (4),
 1134 (5), (6), (7), or (8), the subtotal sentence points are
 1135 multiplied by 2.0. If the primary offense is a violation of s.
 1136 784.07(3) or s. 775.0875(1), or of the Law Enforcement
 1137 Protection Act under s. 775.0823(9) or (10), the subtotal
 1138 sentence points are multiplied by 1.5.

1139
 1140 Grand theft of a motor vehicle: If the primary offense is grand
 1141 theft of the third degree involving a motor vehicle and in the
 1142 offender's prior record, there are three or more grand thefts of
 1143 the third degree involving a motor vehicle, the subtotal
 1144 sentence points are multiplied by 1.5.

1145
 1146 Offense related to a criminal street gang: If the offender is
 1147 convicted of the primary offense and committed that offense for
 1148 the purpose of benefiting, promoting, or furthering the

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1149 interests of a criminal street gang as prohibited under s.
 1150 874.04, the subtotal sentence points are multiplied by 1.5.

1151
 1152 Domestic violence in the presence of a child: If the offender is
 1153 convicted of the primary offense and the primary offense is a
 1154 crime of domestic violence, as defined in s. 741.28, which was
 1155 committed in the presence of a child under 16 years of age who
 1156 is a family or household member as defined in s. 741.28(3) with
 1157 the victim or perpetrator, the subtotal sentence points are
 1158 multiplied by 1.5.

1159 Section 19. For the purpose of incorporating the amendment
 1160 to section 893.135, Florida Statutes, in a reference thereto,
 1161 subsection (2) of section 921.142, Florida Statutes, is
 1162 reenacted to read:

1163 921.142 Sentence of death or life imprisonment for capital
 1164 drug trafficking felonies; further proceedings to determine
 1165 sentence.--

1166 (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.--Upon
 1167 conviction or adjudication of guilt of a defendant of a capital
 1168 felony under s. 893.135, the court shall conduct a separate
 1169 sentencing proceeding to determine whether the defendant should
 1170 be sentenced to death or life imprisonment as authorized by s.
 1171 775.082. The proceeding shall be conducted by the trial judge
 1172 before the trial jury as soon as practicable. If, through
 1173 impossibility or inability, the trial jury is unable to
 1174 reconvene for a hearing on the issue of penalty, having
 1175 determined the guilt of the accused, the trial judge may summon
 1176 a special juror or jurors as provided in chapter 913 to

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1177 determine the issue of the imposition of the penalty. If the
1178 trial jury has been waived, or if the defendant pleaded guilty,
1179 the sentencing proceeding shall be conducted before a jury
1180 impaneled for that purpose, unless waived by the defendant. In
1181 the proceeding, evidence may be presented as to any matter that
1182 the court deems relevant to the nature of the crime and the
1183 character of the defendant and shall include matters relating to
1184 any of the aggravating or mitigating circumstances enumerated in
1185 subsections (6) and (7). Any such evidence which the court deems
1186 to have probative value may be received, regardless of its
1187 admissibility under the exclusionary rules of evidence, provided
1188 the defendant is accorded a fair opportunity to rebut any
1189 hearsay statements. However, this subsection shall not be
1190 construed to authorize the introduction of any evidence secured
1191 in violation of the Constitution of the United States or the
1192 Constitution of the State of Florida. The state and the
1193 defendant or the defendant's counsel shall be permitted to
1194 present argument for or against sentence of death.

1195 Section 20. For the purpose of incorporating the amendment
1196 to section 893.13, Florida Statutes, in a reference thereto,
1197 subsection (1) of section 921.187, Florida Statutes, is
1198 reenacted to read:

1199 921.187 Disposition and sentencing; alternatives;
1200 restitution.--

1201 (1) The alternatives provided in this section for the
1202 disposition of criminal cases shall be used in a manner that
1203 will best serve the needs of society, punish criminal offenders,
1204 and provide the opportunity for rehabilitation.

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1205 (a) If the offender does not receive a state prison
 1206 sentence, the court may:

1207 1. Impose a split sentence whereby the offender is to be
 1208 placed on probation upon completion of any specified period of
 1209 such sentence, which period may include a term of years or less.

1210 2. Make any other disposition that is authorized by law.

1211 3. Place the offender on probation with or without an
 1212 adjudication of guilt pursuant to s. 948.01.

1213 4. Impose a fine and probation pursuant to s. 948.011 when
 1214 the offense is punishable by both a fine and imprisonment and
 1215 probation is authorized.

1216 5. Place the offender into community control requiring
 1217 intensive supervision and surveillance pursuant to chapter 948.

1218 6. Impose, as a condition of probation or community
 1219 control, a period of treatment which shall be restricted to a
 1220 county facility, a Department of Corrections probation and
 1221 restitution center, a probation program drug punishment
 1222 treatment community, or a community residential or
 1223 nonresidential facility, excluding a community correctional
 1224 center as defined in s. 944.026, which is owned and operated by
 1225 any qualified public or private entity providing such services.
 1226 Before admission to such a facility, the court shall obtain an
 1227 individual assessment and recommendations on the appropriate
 1228 treatment needs, which shall be considered by the court in
 1229 ordering such placements. Placement in such a facility, except
 1230 for a county residential probation facility, may not exceed 364
 1231 days. Placement in a county residential probation facility may
 1232 not exceed 3 years. Early termination of placement may be

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1233 recommended to the court, when appropriate, by the center
 1234 supervisor, the supervising probation officer, or the probation
 1235 program manager.

1236 7. Sentence the offender pursuant to s. 922.051 to
 1237 imprisonment in a county jail when a statute directs
 1238 imprisonment in a state prison, if the offender's cumulative
 1239 sentence, whether from the same circuit or from separate
 1240 circuits, is not more than 364 days.

1241 8. Sentence the offender who is to be punished by
 1242 imprisonment in a county jail to a jail in another county if
 1243 there is no jail within the county suitable for such prisoner
 1244 pursuant to s. 950.01.

1245 9. Require the offender to participate in a work-release
 1246 or educational or technical training program pursuant to s.
 1247 951.24 while serving a sentence in a county jail, if such a
 1248 program is available.

1249 10. Require the offender to perform a specified public
 1250 service pursuant to s. 775.091.

1251 11. Require the offender who violates chapter 893 or
 1252 violates any law while under the influence of a controlled
 1253 substance or alcohol to participate in a substance abuse
 1254 program.

1255 12.a. Require the offender who violates any criminal
 1256 provision of chapter 893 to pay an additional assessment in an
 1257 amount up to the amount of any fine imposed, pursuant to ss.
 1258 938.21 and 938.23.

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1259 b. Require the offender who violates any provision of s.
 1260 893.13 to pay an additional assessment in an amount of \$100,
 1261 pursuant to ss. 938.25 and 943.361.

1262 13. Impose a split sentence whereby the offender is to be
 1263 placed in a county jail or county work camp upon the completion
 1264 of any specified term of community supervision.

1265 14. Impose split probation whereby upon satisfactory
 1266 completion of half the term of probation, the Department of
 1267 Corrections may place the offender on administrative probation
 1268 pursuant to s. 948.013 for the remainder of the term of
 1269 supervision.

1270 15. Require residence in a state probation and restitution
 1271 center or private drug treatment program for offenders on
 1272 community control or offenders who have violated conditions of
 1273 probation.

1274 16. Impose any other sanction which is provided within the
 1275 community and approved as an intermediate sanction by the county
 1276 public safety coordinating council as described in s. 951.26.

1277 17. Impose, as a condition of community control,
 1278 probation, or probation following incarceration, a requirement
 1279 that an offender who has not obtained a high school diploma or
 1280 high school equivalency diploma or who lacks basic or functional
 1281 literacy skills, upon acceptance by an adult education program,
 1282 make a good faith effort toward completion of such basic or
 1283 functional literacy skills or high school equivalency diploma,
 1284 as defined in s. 1003.435, in accordance with the assessed adult
 1285 general education needs of the individual offender.

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1286 (b)1. Notwithstanding any provision of former s. 921.001
 1287 or s. 921.002 to the contrary, on or after October 1, 1993, the
 1288 court may require any defendant who violates s. 893.13(1)(a)1.,
 1289 (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and meets the criteria
 1290 described in s. 893.13(10), to successfully complete a term of
 1291 probation pursuant to the terms and conditions set forth in s.
 1292 948.034(1), in lieu of serving a term of imprisonment.

1293 2. Notwithstanding any provision of former s. 921.001 or
 1294 s. 921.002 to the contrary, on or after October 1, 1993, the
 1295 court may require any defendant who violates s. 893.13(1)(a)2.,
 1296 (2)(a)2., (5)(b), or (6)(a), and meets the criteria described in
 1297 s. 893.13(11), to successfully complete a term of probation
 1298 pursuant to the terms and conditions set forth in s. 948.034(2),
 1299 in lieu of serving a term of imprisonment.

1300 Section 21. For the purpose of incorporating the amendment
 1301 to section 893.13, Florida Statutes, in a reference thereto,
 1302 section 938.25, Florida Statutes, is reenacted to read:

1303 938.25 Operating Trust Fund of the Department of Law
 1304 Enforcement.--Notwithstanding any provision to the contrary of
 1305 the laws of this state, the court may assess any defendant who
 1306 pleads guilty or nolo contendere to, or is convicted of, a
 1307 violation of any provision of s. 893.13, without regard to
 1308 whether adjudication was withheld, in addition to any fine and
 1309 other penalty provided or authorized by law, an amount of \$100,
 1310 to be paid to the clerk of the court, who shall forward it to
 1311 the Department of Revenue for deposit in the Operating Trust
 1312 Fund of the Department of Law Enforcement to be used by the
 1313 statewide criminal analysis laboratory system for the purposes

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1314 specified in s. 943.361. The court is authorized to order a
 1315 defendant to pay an additional assessment if it finds that the
 1316 defendant has the ability to pay the fine and the additional
 1317 assessment and will not be prevented thereby from being
 1318 rehabilitated or from making restitution.

1319 Section 22. For the purpose of incorporating the amendment
 1320 to section 893.135, Florida Statutes, in references thereto,
 1321 section 943.0585, Florida Statutes, is reenacted to read:

1322 943.0585 Court-ordered expunction of criminal history
 1323 records.--The courts of this state have jurisdiction over their
 1324 own procedures, including the maintenance, expunction, and
 1325 correction of judicial records containing criminal history
 1326 information to the extent such procedures are not inconsistent
 1327 with the conditions, responsibilities, and duties established by
 1328 this section. Any court of competent jurisdiction may order a
 1329 criminal justice agency to expunge the criminal history record
 1330 of a minor or an adult who complies with the requirements of
 1331 this section. The court shall not order a criminal justice
 1332 agency to expunge a criminal history record until the person
 1333 seeking to expunge a criminal history record has applied for and
 1334 received a certificate of eligibility for expunction pursuant to
 1335 subsection (2). A criminal history record that relates to a
 1336 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
 1337 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
 1338 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
 1339 s. 916.1075, or a violation enumerated in s. 907.041 may not be
 1340 expunged, without regard to whether adjudication was withheld,
 1341 if the defendant was found guilty of or pled guilty or nolo

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1342 | contendere to the offense, or if the defendant, as a minor, was
 1343 | found to have committed, or pled guilty or nolo contendere to
 1344 | committing, the offense as a delinquent act. The court may only
 1345 | order expunction of a criminal history record pertaining to one
 1346 | arrest or one incident of alleged criminal activity, except as
 1347 | provided in this section. The court may, at its sole discretion,
 1348 | order the expunction of a criminal history record pertaining to
 1349 | more than one arrest if the additional arrests directly relate
 1350 | to the original arrest. If the court intends to order the
 1351 | expunction of records pertaining to such additional arrests,
 1352 | such intent must be specified in the order. A criminal justice
 1353 | agency may not expunge any record pertaining to such additional
 1354 | arrests if the order to expunge does not articulate the
 1355 | intention of the court to expunge a record pertaining to more
 1356 | than one arrest. This section does not prevent the court from
 1357 | ordering the expunction of only a portion of a criminal history
 1358 | record pertaining to one arrest or one incident of alleged
 1359 | criminal activity. Notwithstanding any law to the contrary, a
 1360 | criminal justice agency may comply with laws, court orders, and
 1361 | official requests of other jurisdictions relating to expunction,
 1362 | correction, or confidential handling of criminal history records
 1363 | or information derived therefrom. This section does not confer
 1364 | any right to the expunction of any criminal history record, and
 1365 | any request for expunction of a criminal history record may be
 1366 | denied at the sole discretion of the court.

1367 | (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.--Each
 1368 | petition to a court to expunge a criminal history record is
 1369 | complete only when accompanied by:

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1370 (a) A certificate of eligibility for expunction issued by
 1371 the department pursuant to subsection (2).

1372 (b) The petitioner's sworn statement attesting that the
 1373 petitioner:

1374 1. Has never, prior to the date on which the petition is
 1375 filed, been adjudicated guilty of a criminal offense or
 1376 comparable ordinance violation or adjudicated delinquent for
 1377 committing a felony or a misdemeanor specified in s.
 1378 943.051(3)(b).

1379 2. Has not been adjudicated guilty of, or adjudicated
 1380 delinquent for committing, any of the acts stemming from the
 1381 arrest or alleged criminal activity to which the petition
 1382 pertains.

1383 3. Has never secured a prior sealing or expunction of a
 1384 criminal history record under this section, former s. 893.14,
 1385 former s. 901.33, or former s. 943.058, or from any jurisdiction
 1386 outside the state.

1387 4. Is eligible for such an expunction to the best of his
 1388 or her knowledge or belief and does not have any other petition
 1389 to expunge or any petition to seal pending before any court.

1390
 1391 Any person who knowingly provides false information on such
 1392 sworn statement to the court commits a felony of the third
 1393 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1394 775.084.

1395 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior to
 1396 petitioning the court to expunge a criminal history record, a
 1397 person seeking to expunge a criminal history record shall apply

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1398 to the department for a certificate of eligibility for
 1399 expunction. The department shall, by rule adopted pursuant to
 1400 chapter 120, establish procedures pertaining to the application
 1401 for and issuance of certificates of eligibility for expunction.
 1402 The department shall issue a certificate of eligibility for
 1403 expunction to a person who is the subject of a criminal history
 1404 record if that person:

1405 (a) Has obtained, and submitted to the department, a
 1406 written, certified statement from the appropriate state attorney
 1407 or statewide prosecutor which indicates:

1408 1. That an indictment, information, or other charging
 1409 document was not filed or issued in the case.

1410 2. That an indictment, information, or other charging
 1411 document, if filed or issued in the case, was dismissed or nolle
 1412 prosequi by the state attorney or statewide prosecutor, or was
 1413 dismissed by a court of competent jurisdiction.

1414 3. That the criminal history record does not relate to a
 1415 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
 1416 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
 1417 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
 1418 s. 916.1075, or a violation enumerated in s. 907.041, where the
 1419 defendant was found guilty of, or pled guilty or nolo contendere
 1420 to any such offense, or that the defendant, as a minor, was
 1421 found to have committed, or pled guilty or nolo contendere to
 1422 committing, such an offense as a delinquent act, without regard
 1423 to whether adjudication was withheld.

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1424 (b) Remits a \$75 processing fee to the department for
 1425 placement in the Department of Law Enforcement Operating Trust
 1426 Fund, unless such fee is waived by the executive director.

1427 (c) Has submitted to the department a certified copy of
 1428 the disposition of the charge to which the petition to expunge
 1429 pertains.

1430 (d) Has never, prior to the date on which the application
 1431 for a certificate of eligibility is filed, been adjudicated
 1432 guilty of a criminal offense or comparable ordinance violation
 1433 or adjudicated delinquent for committing a felony or a
 1434 misdemeanor specified in s. 943.051(3)(b).

1435 (e) Has not been adjudicated guilty of, or adjudicated
 1436 delinquent for committing, any of the acts stemming from the
 1437 arrest or alleged criminal activity to which the petition to
 1438 expunge pertains.

1439 (f) Has never secured a prior sealing or expunction of a
 1440 criminal history record under this section, former s. 893.14,
 1441 former s. 901.33, or former s. 943.058.

1442 (g) Is no longer under court supervision applicable to the
 1443 disposition of the arrest or alleged criminal activity to which
 1444 the petition to expunge pertains.

1445 (h) Is not required to wait a minimum of 10 years prior to
 1446 being eligible for an expunction of such records because all
 1447 charges related to the arrest or criminal activity to which the
 1448 petition to expunge pertains were dismissed prior to trial,
 1449 adjudication, or the withholding of adjudication. Otherwise,
 1450 such criminal history record must be sealed under this section,

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1451 former s. 893.14, former s. 901.33, or former s. 943.058 for at
 1452 least 10 years before such record is eligible for expunction.

1453 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.--

1454 (a) In judicial proceedings under this section, a copy of
 1455 the completed petition to expunge shall be served upon the
 1456 appropriate state attorney or the statewide prosecutor and upon
 1457 the arresting agency; however, it is not necessary to make any
 1458 agency other than the state a party. The appropriate state
 1459 attorney or the statewide prosecutor and the arresting agency
 1460 may respond to the court regarding the completed petition to
 1461 expunge.

1462 (b) If relief is granted by the court, the clerk of the
 1463 court shall certify copies of the order to the appropriate state
 1464 attorney or the statewide prosecutor and the arresting agency.
 1465 The arresting agency is responsible for forwarding the order to
 1466 any other agency to which the arresting agency disseminated the
 1467 criminal history record information to which the order pertains.
 1468 The department shall forward the order to expunge to the Federal
 1469 Bureau of Investigation. The clerk of the court shall certify a
 1470 copy of the order to any other agency which the records of the
 1471 court reflect has received the criminal history record from the
 1472 court.

1473 (c) For an order to expunge entered by a court prior to
 1474 July 1, 1992, the department shall notify the appropriate state
 1475 attorney or statewide prosecutor of an order to expunge which is
 1476 contrary to law because the person who is the subject of the
 1477 record has previously been convicted of a crime or comparable
 1478 ordinance violation or has had a prior criminal history record

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1479 sealed or expunged. Upon receipt of such notice, the appropriate
 1480 state attorney or statewide prosecutor shall take action, within
 1481 60 days, to correct the record and petition the court to void
 1482 the order to expunge. The department shall seal the record until
 1483 such time as the order is voided by the court.

1484 (d) On or after July 1, 1992, the department or any other
 1485 criminal justice agency is not required to act on an order to
 1486 expunge entered by a court when such order does not comply with
 1487 the requirements of this section. Upon receipt of such an order,
 1488 the department must notify the issuing court, the appropriate
 1489 state attorney or statewide prosecutor, the petitioner or the
 1490 petitioner's attorney, and the arresting agency of the reason
 1491 for noncompliance. The appropriate state attorney or statewide
 1492 prosecutor shall take action within 60 days to correct the
 1493 record and petition the court to void the order. No cause of
 1494 action, including contempt of court, shall arise against any
 1495 criminal justice agency for failure to comply with an order to
 1496 expunge when the petitioner for such order failed to obtain the
 1497 certificate of eligibility as required by this section or such
 1498 order does not otherwise comply with the requirements of this
 1499 section.

1500 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
 1501 criminal history record of a minor or an adult which is ordered
 1502 expunged by a court of competent jurisdiction pursuant to this
 1503 section must be physically destroyed or obliterated by any
 1504 criminal justice agency having custody of such record; except
 1505 that any criminal history record in the custody of the
 1506 department must be retained in all cases. A criminal history

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1507 | record ordered expunged that is retained by the department is
 1508 | confidential and exempt from the provisions of s. 119.07(1) and
 1509 | s. 24(a), Art. I of the State Constitution and not available to
 1510 | any person or entity except upon order of a court of competent
 1511 | jurisdiction. A criminal justice agency may retain a notation
 1512 | indicating compliance with an order to expunge.

1513 | (a) The person who is the subject of a criminal history
 1514 | record that is expunged under this section or under other
 1515 | provisions of law, including former s. 893.14, former s. 901.33,
 1516 | and former s. 943.058, may lawfully deny or fail to acknowledge
 1517 | the arrests covered by the expunged record, except when the
 1518 | subject of the record:

- 1519 | 1. Is a candidate for employment with a criminal justice
 1520 | agency;
- 1521 | 2. Is a defendant in a criminal prosecution;
- 1522 | 3. Concurrently or subsequently petitions for relief under
 1523 | this section or s. 943.059;
- 1524 | 4. Is a candidate for admission to The Florida Bar;
- 1525 | 5. Is seeking to be employed or licensed by or to contract
 1526 | with the Department of Children and Family Services or the
 1527 | Department of Juvenile Justice or to be employed or used by such
 1528 | contractor or licensee in a sensitive position having direct
 1529 | contact with children, the developmentally disabled, the aged,
 1530 | or the elderly as provided in s. 110.1127(3), s. 393.063, s.
 1531 | 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
 1532 | 409.175(2)(i), s. 415.102(4), s. 916.106(10) and (13), s.
 1533 | 985.407, or chapter 400; or

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1534 6. Is seeking to be employed or licensed by the Department
 1535 of Education, any district school board, any university
 1536 laboratory school, any charter school, any private or parochial
 1537 school, or any local governmental entity that licenses child
 1538 care facilities.

1539 (b) Subject to the exceptions in paragraph (a), a person
 1540 who has been granted an expunction under this section, former s.
 1541 893.14, former s. 901.33, or former s. 943.058 may not be held
 1542 under any provision of law of this state to commit perjury or to
 1543 be otherwise liable for giving a false statement by reason of
 1544 such person's failure to recite or acknowledge an expunged
 1545 criminal history record.

1546 (c) Information relating to the existence of an expunged
 1547 criminal history record which is provided in accordance with
 1548 paragraph (a) is confidential and exempt from the provisions of
 1549 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 1550 except that the department shall disclose the existence of a
 1551 criminal history record ordered expunged to the entities set
 1552 forth in subparagraphs (a)1., 4., 5., and 6. for their
 1553 respective licensing and employment purposes, and to criminal
 1554 justice agencies for their respective criminal justice purposes.
 1555 It is unlawful for any employee of an entity set forth in
 1556 subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or
 1557 subparagraph (a)6. to disclose information relating to the
 1558 existence of an expunged criminal history record of a person
 1559 seeking employment or licensure with such entity or contractor,
 1560 except to the person to whom the criminal history record relates
 1561 or to persons having direct responsibility for employment or

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1562 licensure decisions. Any person who violates this paragraph
 1563 commits a misdemeanor of the first degree, punishable as
 1564 provided in s. 775.082 or s. 775.083.

1565 (5) STATUTORY REFERENCES.--Any reference to any other
 1566 chapter, section, or subdivision of the Florida Statutes in this
 1567 section constitutes a general reference under the doctrine of
 1568 incorporation by reference.

1569 Section 23. For the purpose of incorporating the amendment
 1570 to section 893.135, Florida Statutes, in a reference thereto,
 1571 section 943.059, Florida Statutes, is reenacted to read:

1572 943.059 Court-ordered sealing of criminal history
 1573 records.--The courts of this state shall continue to have
 1574 jurisdiction over their own procedures, including the
 1575 maintenance, sealing, and correction of judicial records
 1576 containing criminal history information to the extent such
 1577 procedures are not inconsistent with the conditions,
 1578 responsibilities, and duties established by this section. Any
 1579 court of competent jurisdiction may order a criminal justice
 1580 agency to seal the criminal history record of a minor or an
 1581 adult who complies with the requirements of this section. The
 1582 court shall not order a criminal justice agency to seal a
 1583 criminal history record until the person seeking to seal a
 1584 criminal history record has applied for and received a
 1585 certificate of eligibility for sealing pursuant to subsection
 1586 (2). A criminal history record that relates to a violation of s.
 1587 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
 1588 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s.
 1589 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, or

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1590 a violation enumerated in s. 907.041 may not be sealed, without
1591 regard to whether adjudication was withheld, if the defendant
1592 was found guilty of or pled guilty or nolo contendere to the
1593 offense, or if the defendant, as a minor, was found to have
1594 committed or pled guilty or nolo contendere to committing the
1595 offense as a delinquent act. The court may only order sealing of
1596 a criminal history record pertaining to one arrest or one
1597 incident of alleged criminal activity, except as provided in
1598 this section. The court may, at its sole discretion, order the
1599 sealing of a criminal history record pertaining to more than one
1600 arrest if the additional arrests directly relate to the original
1601 arrest. If the court intends to order the sealing of records
1602 pertaining to such additional arrests, such intent must be
1603 specified in the order. A criminal justice agency may not seal
1604 any record pertaining to such additional arrests if the order to
1605 seal does not articulate the intention of the court to seal
1606 records pertaining to more than one arrest. This section does
1607 not prevent the court from ordering the sealing of only a
1608 portion of a criminal history record pertaining to one arrest or
1609 one incident of alleged criminal activity. Notwithstanding any
1610 law to the contrary, a criminal justice agency may comply with
1611 laws, court orders, and official requests of other jurisdictions
1612 relating to sealing, correction, or confidential handling of
1613 criminal history records or information derived therefrom. This
1614 section does not confer any right to the sealing of any criminal
1615 history record, and any request for sealing a criminal history
1616 record may be denied at the sole discretion of the court.

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1617 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each
 1618 petition to a court to seal a criminal history record is
 1619 complete only when accompanied by:

1620 (a) A certificate of eligibility for sealing issued by the
 1621 department pursuant to subsection (2).

1622 (b) The petitioner's sworn statement attesting that the
 1623 petitioner:

1624 1. Has never, prior to the date on which the petition is
 1625 filed, been adjudicated guilty of a criminal offense or
 1626 comparable ordinance violation or adjudicated delinquent for
 1627 committing a felony or a misdemeanor specified in s.
 1628 943.051(3)(b).

1629 2. Has not been adjudicated guilty of or adjudicated
 1630 delinquent for committing any of the acts stemming from the
 1631 arrest or alleged criminal activity to which the petition to
 1632 seal pertains.

1633 3. Has never secured a prior sealing or expunction of a
 1634 criminal history record under this section, former s. 893.14,
 1635 former s. 901.33, former s. 943.058, or from any jurisdiction
 1636 outside the state.

1637 4. Is eligible for such a sealing to the best of his or
 1638 her knowledge or belief and does not have any other petition to
 1639 seal or any petition to expunge pending before any court.

1640
 1641 Any person who knowingly provides false information on such
 1642 sworn statement to the court commits a felony of the third
 1643 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1644 775.084.

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1645 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
 1646 petitioning the court to seal a criminal history record, a
 1647 person seeking to seal a criminal history record shall apply to
 1648 the department for a certificate of eligibility for sealing. The
 1649 department shall, by rule adopted pursuant to chapter 120,
 1650 establish procedures pertaining to the application for and
 1651 issuance of certificates of eligibility for sealing. The
 1652 department shall issue a certificate of eligibility for sealing
 1653 to a person who is the subject of a criminal history record
 1654 provided that such person:

1655 (a) Has submitted to the department a certified copy of
 1656 the disposition of the charge to which the petition to seal
 1657 pertains.

1658 (b) Remits a \$75 processing fee to the department for
 1659 placement in the Department of Law Enforcement Operating Trust
 1660 Fund, unless such fee is waived by the executive director.

1661 (c) Has never, prior to the date on which the application
 1662 for a certificate of eligibility is filed, been adjudicated
 1663 guilty of a criminal offense or comparable ordinance violation
 1664 or adjudicated delinquent for committing a felony or a
 1665 misdemeanor specified in s. 943.051(3)(b).

1666 (d) Has not been adjudicated guilty of or adjudicated
 1667 delinquent for committing any of the acts stemming from the
 1668 arrest or alleged criminal activity to which the petition to
 1669 seal pertains.

1670 (e) Has never secured a prior sealing or expunction of a
 1671 criminal history record under this section, former s. 893.14,
 1672 former s. 901.33, or former s. 943.058.

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1673 (f) Is no longer under court supervision applicable to the
 1674 disposition of the arrest or alleged criminal activity to which
 1675 the petition to seal pertains.

1676 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

1677 (a) In judicial proceedings under this section, a copy of
 1678 the completed petition to seal shall be served upon the
 1679 appropriate state attorney or the statewide prosecutor and upon
 1680 the arresting agency; however, it is not necessary to make any
 1681 agency other than the state a party. The appropriate state
 1682 attorney or the statewide prosecutor and the arresting agency
 1683 may respond to the court regarding the completed petition to
 1684 seal.

1685 (b) If relief is granted by the court, the clerk of the
 1686 court shall certify copies of the order to the appropriate state
 1687 attorney or the statewide prosecutor and to the arresting
 1688 agency. The arresting agency is responsible for forwarding the
 1689 order to any other agency to which the arresting agency
 1690 disseminated the criminal history record information to which
 1691 the order pertains. The department shall forward the order to
 1692 seal to the Federal Bureau of Investigation. The clerk of the
 1693 court shall certify a copy of the order to any other agency
 1694 which the records of the court reflect has received the criminal
 1695 history record from the court.

1696 (c) For an order to seal entered by a court prior to July
 1697 1, 1992, the department shall notify the appropriate state
 1698 attorney or statewide prosecutor of any order to seal which is
 1699 contrary to law because the person who is the subject of the
 1700 record has previously been convicted of a crime or comparable

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1701 ordinance violation or has had a prior criminal history record
1702 sealed or expunged. Upon receipt of such notice, the appropriate
1703 state attorney or statewide prosecutor shall take action, within
1704 60 days, to correct the record and petition the court to void
1705 the order to seal. The department shall seal the record until
1706 such time as the order is voided by the court.

1707 (d) On or after July 1, 1992, the department or any other
1708 criminal justice agency is not required to act on an order to
1709 seal entered by a court when such order does not comply with the
1710 requirements of this section. Upon receipt of such an order, the
1711 department must notify the issuing court, the appropriate state
1712 attorney or statewide prosecutor, the petitioner or the
1713 petitioner's attorney, and the arresting agency of the reason
1714 for noncompliance. The appropriate state attorney or statewide
1715 prosecutor shall take action within 60 days to correct the
1716 record and petition the court to void the order. No cause of
1717 action, including contempt of court, shall arise against any
1718 criminal justice agency for failure to comply with an order to
1719 seal when the petitioner for such order failed to obtain the
1720 certificate of eligibility as required by this section or when
1721 such order does not comply with the requirements of this
1722 section.

1723 (e) An order sealing a criminal history record pursuant to
1724 this section does not require that such record be surrendered to
1725 the court, and such record shall continue to be maintained by
1726 the department and other criminal justice agencies.

1727 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal
1728 history record of a minor or an adult which is ordered sealed by

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1729 a court of competent jurisdiction pursuant to this section is
 1730 confidential and exempt from the provisions of s. 119.07(1) and
 1731 s. 24(a), Art. I of the State Constitution and is available only
 1732 to the person who is the subject of the record, to the subject's
 1733 attorney, to criminal justice agencies for their respective
 1734 criminal justice purposes, or to those entities set forth in
 1735 subparagraphs (a)1., 4., 5., and 6. for their respective
 1736 licensing and employment purposes.

1737 (a) The subject of a criminal history record sealed under
 1738 this section or under other provisions of law, including former
 1739 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
 1740 deny or fail to acknowledge the arrests covered by the sealed
 1741 record, except when the subject of the record:

- 1742 1. Is a candidate for employment with a criminal justice
- 1743 agency;
- 1744 2. Is a defendant in a criminal prosecution;
- 1745 3. Concurrently or subsequently petitions for relief under
- 1746 this section or s. 943.0585;
- 1747 4. Is a candidate for admission to The Florida Bar;
- 1748 5. Is seeking to be employed or licensed by or to contract
- 1749 with the Department of Children and Family Services or the
- 1750 Department of Juvenile Justice or to be employed or used by such
- 1751 contractor or licensee in a sensitive position having direct
- 1752 contact with children, the developmentally disabled, the aged,
- 1753 or the elderly as provided in s. 110.1127(3), s. 393.063, s.
- 1754 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
- 1755 409.175(2)(i), s. 415.102(4), s. 415.103, s. 916.106(10) and
- 1756 (13), s. 985.407, or chapter 400; or

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1757 6. Is seeking to be employed or licensed by the Department
 1758 of Education, any district school board, any university
 1759 laboratory school, any charter school, any private or parochial
 1760 school, or any local governmental entity that licenses child
 1761 care facilities.

1762 (b) Subject to the exceptions in paragraph (a), a person
 1763 who has been granted a sealing under this section, former s.
 1764 893.14, former s. 901.33, or former s. 943.058 may not be held
 1765 under any provision of law of this state to commit perjury or to
 1766 be otherwise liable for giving a false statement by reason of
 1767 such person's failure to recite or acknowledge a sealed criminal
 1768 history record.

1769 (c) Information relating to the existence of a sealed
 1770 criminal record provided in accordance with the provisions of
 1771 paragraph (a) is confidential and exempt from the provisions of
 1772 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 1773 except that the department shall disclose the sealed criminal
 1774 history record to the entities set forth in subparagraphs (a)1.,
 1775 4., 5., and 6. for their respective licensing and employment
 1776 purposes. It is unlawful for any employee of an entity set forth
 1777 in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5.,
 1778 or subparagraph (a)6. to disclose information relating to the
 1779 existence of a sealed criminal history record of a person
 1780 seeking employment or licensure with such entity or contractor,
 1781 except to the person to whom the criminal history record relates
 1782 or to persons having direct responsibility for employment or
 1783 licensure decisions. Any person who violates the provisions of

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1784 | this paragraph commits a misdemeanor of the first degree,
 1785 | punishable as provided in s. 775.082 or s. 775.083.

1786 | (5) STATUTORY REFERENCES.--Any reference to any other
 1787 | chapter, section, or subdivision of the Florida Statutes in this
 1788 | section constitutes a general reference under the doctrine of
 1789 | incorporation by reference.

1790 | Section 24. For the purpose of incorporating the amendment
 1791 | to section 893.13, Florida Statutes, in references thereto,
 1792 | subsections (1) and (2) of section 948.034, Florida Statutes,
 1793 | are reenacted to read:

1794 | 948.034 Terms and conditions of probation; community
 1795 | residential drug punishment centers.--

1796 | (1) On or after October 1, 1993, any person who violates
 1797 | s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a) may,
 1798 | in the discretion of the trial court, be required to
 1799 | successfully complete a term of probation in lieu of serving a
 1800 | term of imprisonment as required or authorized by s. 775.084,
 1801 | former s. 921.001, or s. 921.002, as follows:

1802 | (a) If the person has not previously been convicted of
 1803 | violating s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or
 1804 | (5)(a), adjudication may be withheld and the offender may be
 1805 | placed on probation for not less than 18 months, as a condition
 1806 | of which the court shall require the offender to reside at a
 1807 | community residential drug punishment center for 90 days. The
 1808 | offender must comply with all rules and regulations of the
 1809 | center and must pay a fee for the costs of room and board and
 1810 | residential supervision. Placement of an offender into a
 1811 | community residential drug punishment center is subject to

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1812 budgetary considerations and availability of bed space. If the
1813 court requires the offender to reside at a community residential
1814 drug punishment center, the court shall also require the
1815 offender to comply with one or more of the other following terms
1816 and conditions:

1817 1. Pay a fine of not less than \$500 nor more than \$10,000
1818 pursuant to s. 775.083(1)(c).

1819 2. Enter, regularly attend, and successfully complete a
1820 substance abuse education program of at least 40 hours or a
1821 prescribed substance abuse treatment program provided by a
1822 treatment resource licensed pursuant to chapter 397 or by a
1823 hospital licensed pursuant to chapter 395, as specified by the
1824 court. In addition, the court may refer the offender to a
1825 licensed agency for substance abuse evaluation and, if
1826 appropriate, substance abuse treatment subject to the ability of
1827 the offender to pay for such evaluation and treatment. If such
1828 referral is made, the offender must comply and must pay for the
1829 reasonable cost of the evaluation and treatment.

1830 3. Perform at least 100 hours of public service.

1831 4. Submit to routine and random drug testing which may be
1832 conducted during the probationary period, with the reasonable
1833 costs thereof borne by the offender.

1834 5. Participate, at his or her own expense, in an
1835 appropriate self-help group, such as Narcotics Anonymous,
1836 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1837 (b) If the person has been previously convicted of one
1838 felony violation of s. 893.13(1)(a)1., (1)(c)2., (1)(d)2.,
1839 (2)(a)1., or (5)(a), adjudication may not be withheld and the

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1840 offender may be placed on probation for not less than 24 months,
 1841 as a condition of which the court shall require the offender to
 1842 reside at a community residential drug punishment center for 180
 1843 days. The offender must comply with all rules and regulations of
 1844 the center and must pay a fee for the costs of room and board
 1845 and residential supervision. Placement of an offender into a
 1846 community residential drug punishment center is subject to
 1847 budgetary considerations and availability of bed space. If the
 1848 court requires the offender to reside at a community residential
 1849 drug punishment center, the court shall also require the
 1850 offender to comply with one or more of the other following terms
 1851 and conditions:

1852 1. Pay a fine of not less than \$1,000 nor more than
 1853 \$10,000 pursuant to s. 775.083(1)(c).

1854 2. Enter, regularly attend, and successfully complete a
 1855 substance abuse education program of at least 40 hours or a
 1856 prescribed substance abuse treatment program provided by a
 1857 treatment resource licensed pursuant to chapter 397 or by a
 1858 hospital licensed pursuant to chapter 395, as specified by the
 1859 court. In addition, the court may refer the offender to a
 1860 licensed agency for substance abuse evaluation and, if
 1861 appropriate, substance abuse treatment subject to the ability of
 1862 the offender to pay for such evaluation and treatment. If such
 1863 referral is made, the offender must comply and must pay for the
 1864 reasonable cost of the evaluation and treatment.

1865 3. Perform at least 200 hours of public service.

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1866 4. Submit to routine and random drug testing which may be
 1867 conducted during the probationary period, with the reasonable
 1868 costs thereof borne by the offender.

1869 5. Participate, at his or her own expense, in an
 1870 appropriate self-help group, such as Narcotics Anonymous,
 1871 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1872 (c) If the person has been previously convicted of two
 1873 felony violations of s. 893.13(2)(a)1. or (5)(a), adjudication
 1874 may not be withheld and the offender may be placed on probation
 1875 for not less than 36 months, as a condition of which the court
 1876 shall require the offender to reside at a community residential
 1877 drug punishment center for 360 days. The offender must comply
 1878 with all rules and regulations of the center and must pay a fee
 1879 for the costs of room and board and residential supervision.
 1880 Placement of an offender into a community residential drug
 1881 punishment center is subject to budgetary considerations and
 1882 availability of bed space. If the court requires the offender to
 1883 reside at a community residential drug punishment center, the
 1884 court shall also require the offender to comply with one or more
 1885 of the other following terms and conditions:

1886 1. Pay a fine of not less than \$1,500 nor more than
 1887 \$10,000 pursuant to s. 775.083(1)(c).

1888 2. Enter, regularly attend, and successfully complete a
 1889 substance abuse education program of at least 40 hours or a
 1890 prescribed substance abuse treatment program provided by a
 1891 treatment resource licensed pursuant to chapter 397 or by a
 1892 hospital licensed pursuant to chapter 395, as specified by the
 1893 court. In addition, the court may refer the offender to a

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1894 licensed agency for substance abuse evaluation and, if
 1895 appropriate, substance abuse treatment subject to the ability of
 1896 the offender to pay for such evaluation and treatment. If such
 1897 referral is made, the offender must comply and must pay for the
 1898 reasonable cost of the evaluation and treatment.

1899 3. Perform at least 300 hours of public service.

1900 4. Submit to routine and random drug testing which may be
 1901 conducted during the probationary period, with the reasonable
 1902 costs thereof borne by the offender.

1903 5. Participate, at his or her own expense, in an
 1904 appropriate self-help group, such as Narcotics Anonymous,
 1905 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1906 (d) An offender who violates probation imposed pursuant to
 1907 this section shall be sentenced in accordance with s. 921.002.

1908 (2) On or after October 1, 1993, any person who violates
 1909 s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a) may, in the
 1910 discretion of the trial court, be required to successfully
 1911 complete a term of probation in lieu of serving a term of
 1912 imprisonment as required or authorized by s. 775.084, former s.
 1913 921.001, or s. 921.002, as follows:

1914 (a) If the person has not previously been convicted of
 1915 violating s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a),
 1916 adjudication may be withheld and the offender shall be placed on
 1917 probation for not less than 12 months, as a condition of which
 1918 the court may require the offender to comply with one or more of
 1919 the following terms and conditions:

1920 1. Pay a fine of not less than \$250 nor more than \$5,000
 1921 pursuant to s. 775.083(1)(c).

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1922 2. Enter, regularly attend, and successfully complete a
1923 substance abuse education program of at least 40 hours or a
1924 prescribed substance abuse treatment program provided by a
1925 treatment resource licensed pursuant to chapter 397 or by a
1926 hospital licensed pursuant to chapter 395, as specified by the
1927 court. In addition, the court may refer the offender to a
1928 licensed agency for substance abuse evaluation and, if
1929 appropriate, substance abuse treatment subject to the ability of
1930 the offender to pay for such evaluation and treatment. If such
1931 referral is made, the offender must comply and must pay for the
1932 reasonable cost of the evaluation and treatment.

1933 3. Perform at least 50 hours of public service.

1934 4. Submit to routine and random drug testing which may be
1935 conducted during the probationary period, with the reasonable
1936 costs thereof borne by the offender.

1937 5. Participate, at his or her own expense, in an
1938 appropriate self-help group, such as Narcotics Anonymous,
1939 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1940 (b) If the person has been previously convicted of one
1941 felony violation of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or
1942 (6)(a), adjudication may not be withheld and the offender may be
1943 placed on probation for not less than 18 months, as a condition
1944 of which the court shall require the offender to reside at a
1945 community residential drug punishment center for 90 days. The
1946 offender must comply with all rules and regulations of the
1947 center and must pay a fee for the costs of room and board and
1948 residential supervision. Placement of an offender into a
1949 community residential drug punishment center is subject to

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1950 | budgetary considerations and availability of bed space. If the
 1951 | court requires the offender to reside at a community residential
 1952 | drug punishment center, the court shall also require the
 1953 | offender to comply with one or more of the other following terms
 1954 | and conditions:

1955 | 1. Pay a fine of not less than \$500 nor more than \$5,000
 1956 | pursuant to s. 775.083(1)(c).

1957 | 2. Enter, regularly attend, and successfully complete a
 1958 | substance abuse intervention program of a least 80 hours
 1959 | provided by a treatment resource licensed pursuant to chapter
 1960 | 397 or by a hospital licensed pursuant to chapter 395, as
 1961 | specified by the court. In addition, the court may refer the
 1962 | offender to a licensed agency for substance abuse evaluation
 1963 | and, if appropriate, substance abuse treatment subject to the
 1964 | ability of the offender to pay for such evaluation and
 1965 | treatment. If such referral is made, the offender must comply
 1966 | and must pay for the reasonable cost of the evaluation and
 1967 | treatment.

1968 | 3. Perform at least 100 hours of public service.

1969 | 4. Submit to routine and random drug testing which may be
 1970 | conducted during the probationary period, with the reasonable
 1971 | costs thereof borne by the offender.

1972 | 5. Participate, at his or her own expense, in an
 1973 | appropriate self-help group, such as Narcotics Anonymous,
 1974 | Alcoholics Anonymous, or Cocaine Anonymous, if available.

1975 | (c) If the person has been previously convicted of two
 1976 | felony violations of s. 893.13(2)(a)2., (5)(b), or (6)(a),
 1977 | adjudication may not be withheld and the offender may be placed

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1978 | on probation for not less than 24 months, as a condition of
 1979 | which the court shall require the offender to reside at a
 1980 | community residential drug punishment center for 120 days. The
 1981 | offender must comply with all rules and regulations of the
 1982 | center and must pay a fee for the costs of room and board and
 1983 | residential supervision. Placement of an offender into a
 1984 | community residential drug punishment center is subject to
 1985 | budgetary considerations and availability of bed space. If the
 1986 | court requires the offender to reside at a community residential
 1987 | drug punishment center, the court shall also require the
 1988 | offender to comply with one or more of the other following terms
 1989 | and conditions:

1990 | 1. Pay a fine of not less than \$1,000 nor more than \$5,000
 1991 | pursuant to s. 775.083(1)(c).

1992 | 2. Enter, regularly attend, and successfully complete a
 1993 | prescribed substance abuse treatment program provided by a
 1994 | treatment resource licensed pursuant to chapter 397 or by a
 1995 | hospital licensed pursuant to chapter 395, as specified by the
 1996 | court. In addition, the court may refer the offender to a
 1997 | licensed agency for substance abuse evaluation and, if
 1998 | appropriate, substance abuse treatment subject to the ability of
 1999 | the offender to pay for such evaluation and treatment. If such
 2000 | referral is made, the offender must comply and must pay for the
 2001 | reasonable cost of the evaluation and treatment.

2002 | 3. Perform at least 150 hours of public service.

2003 | 4. Submit to routine and random drug testing which may be
 2004 | conducted during the probationary period, with the reasonable
 2005 | costs thereof borne by the offender.

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2006 | 5. Participate, at his or her own expense, in an
 2007 | appropriate self-help group, such as Narcotics Anonymous,
 2008 | Alcoholics Anonymous, or Cocaine Anonymous, if available.

2009 | (d) If the person has been previously convicted of three
 2010 | felony violations of s. 893.13(2)(a)2., (5)(b), or (6)(a),
 2011 | adjudication may not be withheld and the offender may be placed
 2012 | on probation for not less than 30 months, as a condition of
 2013 | which the court shall require the offender to reside at a
 2014 | community residential drug punishment center for 200 days. The
 2015 | offender must comply with all rules and regulations of the
 2016 | center and must pay a fee for the costs of room and board and
 2017 | residential supervision. Placement of an offender into a
 2018 | community residential drug punishment center is subject to
 2019 | budgetary considerations and availability of bed space. If the
 2020 | court requires the offender to reside at a community residential
 2021 | drug punishment center, the court shall also require the
 2022 | offender to comply with one or more of the other following terms
 2023 | and conditions:

2024 | 1. Pay a fine of not less than \$1,500 nor more than \$5,000
 2025 | pursuant to s. 775.083(1)(c).

2026 | 2. Enter, regularly attend, and successfully complete a
 2027 | prescribed substance abuse treatment program provided by a
 2028 | treatment resource licensed pursuant to chapter 397 or by a
 2029 | hospital licensed pursuant to chapter 395, as specified by the
 2030 | court. In addition, the court may refer the offender to a
 2031 | licensed agency for substance abuse evaluation and, if
 2032 | appropriate, substance abuse treatment subject to the ability of
 2033 | the offender to pay for such evaluation and treatment. If such

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2034 referral is made, the offender must comply and must pay for the
2035 reasonable cost of the evaluation and treatment.

2036 3. Perform at least 200 hours of public service.

2037 4. Submit to routine and random drug testing which may be
2038 conducted during the probationary period, with the reasonable
2039 costs thereof borne by the offender.

2040 5. Participate, at his or her own expense, in an
2041 appropriate self-help group, such as Narcotics Anonymous,
2042 Alcoholics Anonymous, or Cocaine Anonymous, if available.

2043 (e) If the person has been previously convicted of four
2044 felony violations of s. 893.13(2)(a)2., (5)(b), or (6)(a),
2045 adjudication may not be withheld and the offender may be placed
2046 on probation for not less than 36 months, as a condition of
2047 which the court shall require the offender to reside at a
2048 community residential drug punishment center for 360 days. The
2049 offender must comply with all rules and regulations of the
2050 center and must pay a fee for the costs of room and board and
2051 residential supervision. Placement of an offender into a
2052 community residential drug punishment center is subject to
2053 budgetary considerations and availability of bed space. If the
2054 court requires the offender to reside at a community residential
2055 drug punishment center, the court shall also require the
2056 offender to comply with one or more of the other following terms
2057 and conditions:

2058 1. Pay a fine of not less than \$2,000 nor more than \$5,000
2059 pursuant to s. 775.083(1)(c).

2060 2. Enter, regularly attend, and successfully complete a
2061 prescribed substance abuse treatment program provided by a

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2062 treatment resource licensed pursuant to chapter 397 or by a
2063 hospital licensed pursuant to chapter 395, as specified by the
2064 court. In addition, the court may refer the offender to a
2065 licensed agency for substance abuse evaluation and, if
2066 appropriate, substance abuse treatment subject to the ability of
2067 the offender to pay for such evaluation and treatment. If such
2068 referral is made, the offender must comply and must pay for the
2069 reasonable cost of the evaluation and treatment.

2070 3. Perform at least 250 hours of public service.

2071 4. Submit to routine and random drug testing which may be
2072 conducted during the probationary period, with the reasonable
2073 costs thereof borne by the offender.

2074 5. Participate, at his or her own expense, in an
2075 appropriate self-help group, such as Narcotics Anonymous,
2076 Alcoholics Anonymous, or Cocaine Anonymous, if available.

2077 (f) An offender who violates probation imposed pursuant to
2078 this section shall be sentenced in accordance with s. 921.002.

2079 Section 25. This act shall take effect July 1, 2005, and
2080 shall apply to offenses committed on or after that date.