

By the Committee on Criminal Justice; and Senator Peaden

591-2185-05

1 | A bill to be entitled

2 | An act relating to controlled substances;

3 | amending s. 893.033, F.S.; revising the

4 | definition of "listed precursor chemical" to

5 | include benzaldehyde, hydriodic acid, and

6 | nitroethane, and to remove anhydrous ammonia

7 | and benzyl chloride; revising the definition of

8 | "listed essential chemical" to include

9 | anhydrous ammonia, benzyl chloride,

10 | hydrochloric gas, and iodine; amending s.

11 | 893.13, F.S.; prohibiting a person from

12 | manufacturing methamphetamine or phencyclidine

13 | or from possessing listed chemicals with the

14 | intent to manufacture methamphetamine or

15 | phencyclidine; providing criminal penalties;

16 | providing for minimum terms of imprisonment in

17 | circumstances where a person commits or

18 | attempts to commit such crime in a structure or

19 | conveyance where a child is present and in

20 | circumstances where a child suffers great

21 | bodily harm; providing criminal penalties in

22 | circumstances where a person fails to store

23 | anhydrous ammonia as required; providing

24 | criminal penalties in circumstances involving a

25 | violation of ch. 893, F.S., which results in

26 | serious injury to a state, local, or federal

27 | law enforcement officer; increasing the

28 | criminal penalties if such violation results in

29 | death or great bodily harm to such officer;

30 | prohibiting a person from selling,

31 | manufacturing, delivering, or attempting to

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

1 sell, manufacture, or deliver a controlled
2 substance in, on, or within 1,000 feet of an
3 assisted living facility; providing criminal
4 penalties for such offense; specifying minimum
5 terms of imprisonment for such offense;
6 amending s. 893.135, F.S.; including offenses
7 involving pseudoephedrine within the offense of
8 trafficking in amphetamine; providing criminal
9 penalties; providing that it is a capital
10 offense to manufacture or import
11 pseudoephedrine knowing that the probable
12 result will be death; amending s. 893.149,
13 F.S., relating to the prohibition against
14 possessing listed chemicals; providing an
15 exception to such prohibition for a person
16 authorized to clean up or dispose of hazardous
17 waste or toxic substances pursuant to ch. 893,
18 F.S.; providing that damages arising out of the
19 unlawful possession of, storage of, or
20 tampering with a listed chemical is the sole
21 responsibility of the person unlawfully
22 possessing, storing, or tampering with the
23 chemical; providing that the lawful owner,
24 installer, maintainer, designer, manufacturer,
25 possessor, or seller is immune from liability
26 in the absence of negligent misconduct or
27 failure to abide by laws governing possession
28 or storage; creating s. 893.1495, F.S.;
29 limiting sales of products containing more than
30 a specified amount of ephedrine or related
31 compounds in a single transaction; providing

1 restrictions on the display of products
2 containing ephedrine or related compounds;
3 requiring specialized training for employees of
4 retail outlets who engage in retail sale of
5 such products; providing that local regulations
6 are superseded; providing criminal penalties;
7 reenacting s. 893.02(12), F.S., relating to the
8 definition of the term "listed chemical," for
9 the purpose of incorporating the amendment to
10 s. 893.033, F.S., in a reference thereto;
11 reenacting ss. 435.07(2), 921.187(1), 938.25,
12 and 948.034(1) and (2), F.S., relating to
13 exemptions from disqualification for certain
14 employment, disposition and sentencing
15 alternatives, the assessment of fees for
16 purposes of funding the Operating Trust Fund of
17 the Department of Law Enforcement, and the
18 terms and conditions of probation,
19 respectively, for the purpose of incorporating
20 the amendment to s. 893.13, F.S., in references
21 thereto; reenacting ss. 311.12(3)(c),
22 414.095(1), 775.087(2)(a) and (3)(a),
23 782.04(1)(a), (3)(a), and (4)(a), 893.13(8)(d),
24 907.041(4)(c), 921.0022(3)(g), (h), and (i),
25 921.0024(1), 921.142(2), 943.0585, and 943.059,
26 F.S., relating to seaport security standards,
27 eligibility for temporary cash assistance,
28 mandatory sentencing in circumstances involving
29 the possession of use of a weapon, specified
30 offenses that may be charged as murder if death
31 results, prohibited acts by prescribing

1 practitioners, circumstances in which the court
2 may order pretrial detention, the offense
3 severity ranking chart of the Criminal
4 Punishment Code, worksheet computations and
5 scoresheets under the Criminal Punishment Code,
6 sentencing in capital drug trafficking cases,
7 limitations on circumstances in which a
8 criminal history record may be expunged, and
9 limitations on circumstances in which a
10 criminal history record may be sealed,
11 respectively, for the purpose of incorporating
12 the amendment to s. 895.135, F.S., in
13 references thereto; reenacting ss.
14 397.451(4)(b) and (6), 772.12(2)(a),
15 893.1351(1), and 903.133, F.S., relating to
16 background checks of service provider
17 personnel, the Drug Dealer Liability Act, the
18 prohibition against leasing or renting for the
19 purpose of trafficking in a controlled
20 substance, and the limitation of admission to
21 bail, respectively, for the purpose of
22 incorporating the amendments to ss. 893.13 and
23 893.135, F.S., in references thereto; providing
24 applicability; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 893.033, Florida Statutes, is
29 amended to read:

30
31

1 893.033 Listed chemicals.--The chemicals listed in
2 this section are included by whatever official, common, usual,
3 chemical, or trade name designated.

4 (1) PRECURSOR CHEMICALS.--The term "listed precursor
5 chemical" means a chemical that may be used in manufacturing a
6 controlled substance in violation of this chapter and is
7 critical to the creation of the controlled substance, and such
8 term includes any salt, optical isomer, or salt of an optical
9 isomer, whenever the existence of such salt, optical isomer,
10 or salt of optical isomer is possible within the specific
11 chemical designation. The following are "listed precursor
12 chemicals":

- 13 ~~(a) Anhydrous ammonia.~~
14 (a)(b) Anthranilic acid.
15 (b) Benzaldehyde.
16 ~~(c) Benzyl chloride.~~
17 (c)(d) Benzyl cyanide.
18 (d)(e) Chloroephedrine.
19 (e)(f) Chloropseudoephedrine.
20 (f)(g) Ephedrine.
21 (g)(h) Ergonovine.
22 (h)(i) Ergotamine.
23 (i) Hydriodic acid.
24 (j) Ethylamine.
25 (k) Isosafrole.
26 (l) Methylamine.
27 (m) 3, 4-Methylenedioxyphenyl-2-propanone.
28 (n) N-acetylanthranilic acid.
29 (o) N-ethylephedrine.
30 (p) N-ethylpseudoephedrine.
31 (q) N-methylephedrine.

- 1 (r) N-methylpseudoephedrine.
2 (s) Nitroethane.
3 ~~(t)(s)~~ Norpseudoephedrine.
4 ~~(u)(t)~~ Phenylacetic acid.
5 ~~(v)(u)~~ Phenylpropanolamine.
6 ~~(w)(v)~~ Piperidine.
7 ~~(x)(w)~~ Piperonal.
8 ~~(y)(x)~~ Propionic anhydride.
9 ~~(z)(y)~~ Pseudoephedrine.
10 ~~(aa)(z)~~ Safrole.

11 (2) ESSENTIAL CHEMICALS.--The term "listed essential
12 chemical" means a chemical that may be used as a solvent,
13 reagent, or catalyst in manufacturing a controlled substance
14 in violation of this chapter. The following are "listed
15 essential chemicals":

- 16 (a) Acetic anhydride.
17 (b) Acetone.
18 (c) Anhydrous ammonia.
19 (d) Benzyl chloride.
20 ~~(e)(e)~~ 2-Butanone.
21 ~~(f)(d)~~ Ethyl ether.
22 (g) Hydrochloric gas.
23 ~~(h)(e)~~ Hydriodic acid.
24 (i) Iodine.
25 ~~(j)(f)~~ Potassium permanganate.
26 ~~(k)(g)~~ Toluene.

27 Section 2. Paragraphs (g) and (h) are added to
28 subsection (1) of section 893.13, Florida Statutes, paragraphs
29 (a) and (c) of subsection (7) of that section are amended,
30 subsection (12) is added to that section, and paragraph (d) of
31 subsection (8) of that section is reenacted for purpose of

1 incorporating the amendment to section 893.135, Florida
2 Statutes, in a reference thereto, to read:

3 893.13 Prohibited acts; penalties.--

4 (1)

5 (g) Except as authorized by this chapter, it is
6 unlawful for any person to manufacture methamphetamine or
7 phencyclidine, or possess any listed chemical as defined in s.
8 893.033 in violation of s. 893.149 and with intent to
9 manufacture methamphetamine or phencyclidine. If any person
10 violates this paragraph and:

11 1. The commission or attempted commission of the crime
12 occurs in a structure or conveyance where any child under 16
13 years of age is present, the person commits a felony of the
14 first degree, punishable as provided in s. 775.082, s.
15 775.083, or s. 775.084. In addition, the defendant must be
16 sentenced to a minimum term of imprisonment of 5 calendar
17 years.

18 2. The commission of the crime causes any child under
19 16 years of age to suffer great bodily harm, the person
20 commits a felony of the first degree, punishable as provided
21 in s. 775.082, s. 775.083, or s. 775.084. In addition, the
22 defendant must be sentenced to a minimum term of imprisonment
23 of 10 calendar years.

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

31

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

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

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

11 1. To distribute or dispense a controlled substance in
12 violation of this chapter.

13 2. To refuse or fail to make, keep, or furnish any
14 record, notification, order form, statement, invoice, or
15 information required under this chapter.

16 3. To refuse an entry into any premises for any
17 inspection or to refuse to allow any inspection authorized by
18 this chapter.

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

22 5. To keep or maintain any store, shop, warehouse,
23 dwelling, building, vehicle, boat, aircraft, or other
24 structure or place which is resorted to by persons using
25 controlled substances in violation of this chapter for the
26 purpose of using these substances, or which is used for
27 keeping or selling them in violation of this chapter.

28 6. To use to his or her own personal advantage, or to
29 reveal, any information obtained in enforcement of this
30 chapter except in a prosecution or administrative hearing for
31 a violation of this chapter.

1 7. To possess a prescription form which has not been
2 completed and signed by the practitioner whose name appears
3 printed thereon, unless the person is that practitioner, is an
4 agent or employee of that practitioner, is a pharmacist, or is
5 a supplier of prescription forms who is authorized by that
6 practitioner to possess those forms.

7 8. To withhold information from a practitioner from
8 whom the person seeks to obtain a controlled substance or a
9 prescription for a controlled substance that the person making
10 the request has received a controlled substance or a
11 prescription for a controlled substance of like therapeutic
12 use from another practitioner within the previous 30 days.

13 9. To acquire or obtain, or attempt to acquire or
14 obtain, possession of a controlled substance by
15 misrepresentation, fraud, forgery, deception, or subterfuge.

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

18 11. To furnish false or fraudulent material
19 information in, or omit any material information from, any
20 report or other document required to be kept or filed under
21 this chapter or any record required to be kept by this
22 chapter.

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

27 (c) Any person who violates the provisions of
28 subparagraphs ~~(a)8.-12.(a)8.-11.~~ commits a felony of the
29 third degree, punishable as provided in s. 775.082, s.
30 775.083, or s. 775.084.

31 (8)

1 (d) Notwithstanding paragraph (c), if a prescribing
2 practitioner has violated paragraph (a) and received \$1,000 or
3 more in payment for writing one or more prescriptions or, in
4 the case of a prescription written for a controlled substance
5 described in s. 893.135, has written one or more prescriptions
6 for a quantity of a controlled substance which, individually
7 or in the aggregate, meets the threshold for the offense of
8 trafficking in a controlled substance under s. 893.15, the
9 violation is reclassified as a felony of the second degree and
10 ranked in level 4 of the Criminal Punishment Code.

11 (12) If a person violates any provision of this
12 chapter and the violation results in a serious injury to a
13 state, local, or federal law enforcement officer, the person
14 commits a felony of the third degree, punishable as provided
15 in s. 775.082, s. 775.083, or s. 775.084. If the injury
16 sustained results in death or great bodily harm, the person
17 commits a felony of the second degree, punishable as provided
18 in s. 775.082, s. 775.083, or s. 775.084.

19 Section 3. Paragraph (f) of subsection (1) of section
20 893.135, Florida Statutes, is amended to read:

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

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

26 (f)1. Any person who knowingly sells, purchases,
27 manufactures, delivers, or brings into this state, or who is
28 knowingly in actual or constructive possession of, 14 grams or
29 more of amphetamine, as described in s. 893.03(2)(c)2., or
30 methamphetamine, as described in s. 893.03(2)(c)4., or of any
31 mixture containing amphetamine or methamphetamine, or

1 | phenylacetone, phenylacetic acid, pseudoephedrine, or
2 | ephedrine in conjunction with other chemicals and equipment
3 | utilized in the manufacture of amphetamine or methamphetamine,
4 | commits a felony of the first degree, which felony shall be
5 | known as "trafficking in amphetamine," punishable as provided
6 | in s. 775.082, s. 775.083, or s. 775.084. If the quantity
7 | involved:

8 | a. Is 14 grams or more, but less than 28 grams, such
9 | person shall be sentenced to a mandatory minimum term of
10 | imprisonment of 3 years, and the defendant shall be ordered to
11 | pay a fine of \$50,000.

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

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

19 | 2. Any person who knowingly manufactures or brings
20 | into this state 400 grams or more of amphetamine, as described
21 | in s. 893.03(2)(c)2., or methamphetamine, as described in s.
22 | 893.03(2)(c)4., or of any mixture containing amphetamine or
23 | methamphetamine, or phenylacetone, phenylacetic acid,
24 | pseudoephedrine, or ephedrine in conjunction with other
25 | chemicals and equipment used in the manufacture of amphetamine
26 | or methamphetamine, and who knows that the probable result of
27 | such manufacture or importation would be the death of any
28 | person commits capital manufacture or importation of
29 | amphetamine, a capital felony punishable as provided in ss.
30 | 775.082 and 921.142. Any person sentenced for a capital felony
31 |

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

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

5 893.149 Unlawful possession of listed chemical.--

6 (1) It is unlawful for any person to knowingly or
7 intentionally:

8 (a) Possess a listed chemical with the intent to
9 unlawfully manufacture a controlled substance;

10 (b) Possess or distribute a listed chemical knowing,
11 or having reasonable cause to believe, that the listed
12 chemical will be used to unlawfully manufacture a controlled
13 substance.

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

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

21 (4) Any damages arising out of the unlawful possession
22 of, storage of, or tampering with a listed chemical, as
23 defined in s. 893.033, shall be the sole responsibility of the
24 person or persons unlawfully possessing, storing, or tampering
25 with the listed chemical. In no case shall liability for
26 damages arising out of the unlawful possession of, storage of,
27 or tampering with a listed chemical extend to the lawful
28 owner, installer, maintainer, designer, manufacturer,
29 possessor, or seller of the listed chemical, unless such
30 damages arise out of the acts or omissions of the owner,
31 installer, maintainer, designer, manufacturer, possessor, or

1 seller which constitute negligent misconduct or failure to
2 abide by the laws regarding the possession or storage of a
3 listed chemical.

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

6 893.1495 Retail sale of ephedrine and related
7 compounds.--

8 (1) No person shall knowingly deliver in any single
9 retail over-the-counter sale any number of packages of any
10 drug containing a sole active ingredient that contains a
11 combined total of more than 9 base grams of ephedrine,
12 pseudoephedrine, phenylpropanolamine, or any of their salts,
13 optical isomers, or salts of optical isomers, or more than
14 three packages in any single retail over-the-counter sale,
15 regardless of weight, containing any such sole active
16 ingredient.

17 (2) No person shall knowingly display and offer for
18 retail sale packages of any drug having a sole active
19 ingredient of ephedrine, pseudoephedrine, phenylpropanolamine,
20 or any of their salts or optical isomers other than behind a
21 checkout counter where the public is not permitted or other
22 such location that is not otherwise accessible to the general
23 public.

24 (3) No person who is the owner or primary operator of
25 a retail outlet where ephedrine, pseudoephedrine, or
26 phenylpropanolamine products are available for sale shall
27 knowingly allow an employee to engage in the retail sale of
28 such products unless the employee has completed an employee
29 training program that shall include, at a minimum, basic
30 instruction on state and federal regulations relating to the
31 sale and distribution of such products.

1 (4) The requirements of this section relating to the
2 marketing, sale, or distribution of ephedrine,
3 pseudoephedrine, or phenylpropanolamine products shall
4 supersede any local ordinance or regulation passed by a
5 county, municipality, or other local governmental authority.

6 (5) Any individual who violates subsection (1),
7 subsection (2), or subsection (3) commits:

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

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

12 (c) For a third or subsequent offense, a felony of the
13 third degree, punishable as provided in s. 775.082, s.
14 775.083, or s. 775.084.

15 Section 6. For the purpose of incorporating the
16 amendment to section 893.135, Florida Statutes, in a reference
17 thereto, paragraph (c) of subsection (3) of section 311.12,
18 Florida Statutes, is reenacted to read:

19 311.12 Seaport security standards.--

20 (3)

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

24 1. Any person who has within the past 7 years been
25 convicted, regardless of whether adjudication was withheld,
26 for a forcible felony as defined in s. 776.08; an act of
27 terrorism as defined in s. 775.30; planting of a hoax bomb as
28 provided in s. 790.165; any violation involving the
29 manufacture, possession, sale, delivery, display, use, or
30 attempted or threatened use of a weapon of mass destruction or
31 hoax weapon of mass destruction as provided in s. 790.166;

1 | dealing in stolen property; any violation of s. 893.135; any
2 | violation involving the sale, manufacturing, delivery, or
3 | possession with intent to sell, manufacture, or deliver a
4 | controlled substance; burglary; robbery; any felony violation
5 | of s. 812.014; any violation of s. 790.07; any crime an
6 | element of which includes use or possession of a firearm; any
7 | conviction for any similar offenses under the laws of another
8 | jurisdiction; or conviction for conspiracy to commit any of
9 | the listed offenses shall not be qualified for initial
10 | employment within or regular access to a seaport or restricted
11 | access area; and

12 | 2. Any person who has at any time been convicted for
13 | any of the listed offenses shall not be qualified for initial
14 | employment within or authorized regular access to a seaport or
15 | restricted access area unless, after release from
16 | incarceration and any supervision imposed as a sentence, the
17 | person remained free from a subsequent conviction, regardless
18 | of whether adjudication was withheld, for any of the listed
19 | offenses for a period of at least 7 years prior to the
20 | employment or access date under consideration.

21 | Section 7. For the purpose of incorporating the
22 | amendment to sections 893.13 and 893.135, Florida Statutes, in
23 | references thereto, paragraph (b) of subsection (4) and
24 | subsection (6) of section 397.451, Florida Statutes, are
25 | reenacted to read:

26 | 397.451 Background checks of service provider
27 | personnel.--

28 | (4) EXEMPTIONS FROM DISQUALIFICATION.--

29 | (b) Since rehabilitated substance abuse impaired
30 | persons are effective in the successful treatment and
31 | rehabilitation of substance abuse impaired adolescents, for

1 | service providers which treat adolescents 13 years of age and
2 | older, service provider personnel whose background checks
3 | indicate crimes under s. 817.563, s. 893.13, or s. 893.147 may
4 | be exempted from disqualification from employment pursuant to
5 | this paragraph.

6 | (6) DISQUALIFICATION FROM RECEIVING STATE
7 | FUNDS.--State funds may not be disseminated to any service
8 | provider owned or operated by an owner, director, or chief
9 | financial officer who has been convicted of, has entered a
10 | plea of guilty or nolo contendere to, or has had adjudication
11 | withheld for, a violation of s. 893.135 pertaining to
12 | trafficking in controlled substances, or a violation of the
13 | law of another state, the District of Columbia, the United
14 | States or any possession or territory thereof, or any foreign
15 | jurisdiction which is substantially similar in elements and
16 | penalties to a trafficking offense in this state, unless the
17 | owner's or director's civil rights have been restored.

18 | Section 8. For the purpose of incorporating the
19 | amendment to section 893.135, Florida Statutes, in a reference
20 | thereto, subsection (1) of section 414.095, Florida Statutes,
21 | is reenacted to read:

22 | 414.095 Determining eligibility for temporary cash
23 | assistance.--

24 | (1) ELIGIBILITY.--An applicant must meet eligibility
25 | requirements of this section before receiving services or
26 | temporary cash assistance under this chapter, except that an
27 | applicant shall be required to register for work and engage in
28 | work activities in accordance with s. 445.024, as designated
29 | by the regional workforce board, and may receive support
30 | services or child care assistance in conjunction with such
31 | requirement. The department shall make a determination of

1 | eligibility based on the criteria listed in this chapter. The
2 | department shall monitor continued eligibility for temporary
3 | cash assistance through periodic reviews consistent with the
4 | food stamp eligibility process. Benefits shall not be denied
5 | to an individual solely based on a felony drug conviction,
6 | unless the conviction is for trafficking pursuant to s.
7 | 893.135. To be eligible under this section, an individual
8 | convicted of a drug felony must be satisfactorily meeting the
9 | requirements of the temporary cash assistance program,
10 | including all substance abuse treatment requirements. Within
11 | the limits specified in this chapter, the state opts out of
12 | the provision of Pub. L. No. 104-193, s. 115, that eliminates
13 | eligibility for temporary cash assistance and food stamps for
14 | any individual convicted of a controlled substance felony.

15 | Section 9. For the purpose of incorporating the
16 | amendment to section 893.13, Florida Statutes, in a reference
17 | thereto, subsection (2) of section 435.07, Florida Statutes,
18 | is reenacted to read:

19 | 435.07 Exemptions from disqualification.--Unless
20 | otherwise provided by law, the provisions of this section
21 | shall apply to exemptions from disqualification.

22 | (2) Persons employed by treatment providers who treat
23 | adolescents 13 years of age and older who are disqualified
24 | from employment solely because of crimes under s. 817.563, s.
25 | 893.13, or s. 893.147 may be exempted from disqualification
26 | from employment pursuant to this section without the 3-year
27 | waiting period.

28 | Section 10. For the purpose of incorporating the
29 | amendment to sections 893.13 and 893.135, Florida Statutes, in
30 | references thereto, paragraph (a) of subsection (2) of section
31 | 772.12, Florida Statutes, is reenacted to read:

1 772.12 Drug Dealer Liability Act.--

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

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

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

12 2. A violation of s. 893.135; and

13 Section 11. For the purpose of incorporating the
14 amendment to section 893.135, Florida Statutes, in a reference
15 thereto, paragraph (a) of subsection (2) and paragraph (a) of
16 subsection (3) and of section 775.087, Florida Statutes, are
17 reenacted to read:

18 775.087 Possession or use of weapon; aggravated
19 battery; felony reclassification; minimum sentence.--

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

- 24 a. Murder;
- 25 b. Sexual battery;
- 26 c. Robbery;
- 27 d. Burglary;
- 28 e. Arson;
- 29 f. Aggravated assault;
- 30 g. Aggravated battery;
- 31 h. Kidnapping;

1 i. Escape;
2 j. Aircraft piracy;
3 k. Aggravated child abuse;
4 l. Aggravated abuse of an elderly person or disabled
5 adult;
6 m. Unlawful throwing, placing, or discharging of a
7 destructive device or bomb;
8 n. Carjacking;
9 o. Home-invasion robbery;
10 p. Aggravated stalking;
11 q. Trafficking in cannabis, trafficking in cocaine,
12 capital importation of cocaine, trafficking in illegal drugs,
13 capital importation of illegal drugs, trafficking in
14 phencyclidine, capital importation of phencyclidine,
15 trafficking in methaqualone, capital importation of
16 methaqualone, trafficking in amphetamine, capital importation
17 of amphetamine, trafficking in flunitrazepam, trafficking in
18 gamma-hydroxybutyric acid (GHB), trafficking in
19 1,4-Butanediol, trafficking in Phenethylamines, or other
20 violation of s. 893.135(1); or
21 r. Possession of a firearm by a felon
22
23 and during the commission of the offense, such person actually
24 possessed a "firearm" or "destructive device" as those terms
25 are defined in s. 790.001, shall be sentenced to a minimum
26 term of imprisonment of 10 years, except that a person who is
27 convicted for aggravated assault, possession of a firearm by a
28 felon, or burglary of a conveyance shall be sentenced to a
29 minimum term of imprisonment of 3 years if such person
30 possessed a "firearm" or "destructive device" during the
31 commission of the offense.

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

8 3. Any person who is convicted of a felony or an
9 attempt to commit a felony listed in sub-subparagraphs
10 (a)1.a.-q., regardless of whether the use of a weapon is an
11 element of the felony, and during the course of the commission
12 of the felony such person discharged a "firearm" or
13 "destructive device" as defined in s. 790.001 and, as the
14 result of the discharge, death or great bodily harm was
15 inflicted upon any person, the convicted person shall be
16 sentenced to a minimum term of imprisonment of not less than
17 25 years and not more than a term of imprisonment of life in
18 prison.

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

- 23 a. Murder;
- 24 b. Sexual battery;
- 25 c. Robbery;
- 26 d. Burglary;
- 27 e. Arson;
- 28 f. Aggravated assault;
- 29 g. Aggravated battery;
- 30 h. Kidnapping;
- 31 i. Escape;

- 1 j. Sale, manufacture, delivery, or intent to sell,
2 manufacture, or deliver any controlled substance;
3 k. Aircraft piracy;
4 l. Aggravated child abuse;
5 m. Aggravated abuse of an elderly person or disabled
6 adult;
7 n. Unlawful throwing, placing, or discharging of a
8 destructive device or bomb;
9 o. Carjacking;
10 p. Home-invasion robbery;
11 q. Aggravated stalking; or
12 r. Trafficking in cannabis, trafficking in cocaine,
13 capital importation of cocaine, trafficking in illegal drugs,
14 capital importation of illegal drugs, trafficking in
15 phencyclidine, capital importation of phencyclidine,
16 trafficking in methaqualone, capital importation of
17 methaqualone, trafficking in amphetamine, capital importation
18 of amphetamine, trafficking in flunitrazepam, trafficking in
19 gamma-hydroxybutyric acid (GHB), trafficking in
20 1,4-Butanediol, trafficking in Phenethylamines, or other
21 violation of s. 893.135(1);

22
23 and during the commission of the offense, such person
24 possessed a semiautomatic firearm and its high-capacity
25 detachable box magazine or a machine gun as defined in s.
26 790.001, shall be sentenced to a minimum term of imprisonment
27 of 15 years.

28 2. Any person who is convicted of a felony or an
29 attempt to commit a felony listed in subparagraph (a)1.,
30 regardless of whether the use of a weapon is an element of the
31 felony, and during the course of the commission of the felony

1 such person discharged a semiautomatic firearm and its
2 high-capacity box magazine or a "machine gun" as defined in s.
3 790.001 shall be sentenced to a minimum term of imprisonment
4 of 20 years.

5 3. Any person who is convicted of a felony or an
6 attempt to commit a felony listed in subparagraph (a)1.,
7 regardless of whether the use of a weapon is an element of the
8 felony, and during the course of the commission of the felony
9 such person discharged a semiautomatic firearm and its
10 high-capacity box magazine or a "machine gun" as defined in s.
11 790.001 and, as the result of the discharge, death or great
12 bodily harm was inflicted upon any person, the convicted
13 person shall be sentenced to a minimum term of imprisonment of
14 not less than 25 years and not more than a term of
15 imprisonment of life in prison.

16 Section 12. For the purpose of incorporating the
17 amendment to section 893.135, Florida Statutes, in references
18 thereto, paragraph (a) of subsection (1), paragraph (a) of
19 subsection (3), and paragraph (a) of subsection (4) of section
20 782.04, Florida Statutes, are reenacted to read:

21 782.04 Murder.--

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

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

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

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

28 b. Arson,

29 c. Sexual battery,

30 d. Robbery,

31 e. Burglary,

1 f. Kidnapping,
2 g. Escape,
3 h. Aggravated child abuse,
4 i. Aggravated abuse of an elderly person or disabled
5 adult,
6 j. Aircraft piracy,
7 k. Unlawful throwing, placing, or discharging of a
8 destructive device or bomb,
9 l. Carjacking,
10 m. Home-invasion robbery,
11 n. Aggravated stalking,
12 o. Murder of another human being,
13 p. Resisting an officer with violence to his or her
14 person,
15 q. Felony that is an act of terrorism or is in
16 furtherance of an act of terrorism; or
17 3. Which resulted from the unlawful distribution of
18 any substance controlled under s. 893.03(1), cocaine as
19 described in s. 893.03(2)(a)4., or opium or any synthetic or
20 natural salt, compound, derivative, or preparation of opium by
21 a person 18 years of age or older, when such drug is proven to
22 be the proximate cause of the death of the user,
23
24 is murder in the first degree and constitutes a capital
25 felony, punishable as provided in s. 775.082.
26 (3) When a person is killed in the perpetration of, or
27 in the attempt to perpetrate, any:
28 (a) Trafficking offense prohibited by s. 893.135(1),
29
30 by a person other than the person engaged in the perpetration
31 of or in the attempt to perpetrate such felony, the person

1 | perpetrating or attempting to perpetrate such felony is guilty
2 | of murder in the second degree, which constitutes a felony of
3 | the first degree, punishable by imprisonment for a term of
4 | years not exceeding life or as provided in s. 775.082, s.
5 | 775.083, or s. 775.084.

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

10 | (a) Trafficking offense prohibited by s. 893.135(1),
11 |
12 | is murder in the third degree and constitutes a felony of the
13 | second degree, punishable as provided in s. 775.082, s.
14 | 775.083, or s. 775.084.

15 | Section 13. For the purpose of incorporating the
16 | amendment to section 893.033, Florida Statutes, in a reference
17 | thereto, subsection (12) of section 893.02, Florida Statutes,
18 | is reenacted to read:

19 | 893.02 Definitions.--The following words and phrases
20 | as used in this chapter shall have the following meanings,
21 | unless the context otherwise requires:

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

24 | Section 14. For the purpose of incorporating the
25 | amendment to sections 893.13 and 893.135, Florida Statutes, in
26 | references thereto, subsection (1) of section 893.1351,
27 | Florida Statutes, is reenacted to read:

28 | 893.1351 Lease or rent for the purpose of trafficking
29 | in a controlled substance.--

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

1 | the knowledge that such place, structure, trailer, or
2 | conveyance will be used for the purpose of trafficking in a
3 | controlled substance, as provided in s. 893.135, or the sale
4 | of a controlled substance, as provided in s. 893.13.

5 | Section 15. For the purpose of incorporating the
6 | amendment to sections 893.13 and 893.135, Florida Statutes, in
7 | references thereto, section 903.133, Florida Statutes, is
8 | reenacted to read:

9 | 903.133 Bail on appeal; prohibited for certain felony
10 | convictions.--Notwithstanding the provisions of s. 903.132, no
11 | person adjudged guilty of a felony of the first degree for a
12 | violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.
13 | 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a
14 | violation of s. 794.011(2) or (3), shall be admitted to bail
15 | pending review either by posttrial motion or appeal.

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

20 | 907.041 Pretrial detention and release.--

21 | (4) PRETRIAL DETENTION.--

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

27 | 1. The defendant has previously violated conditions of
28 | release and that no further conditions of release are
29 | reasonably likely to assure the defendant's appearance at
30 | subsequent proceedings;

31 |

1 2. The defendant, with the intent to obstruct the
2 judicial process, has threatened, intimidated, or injured any
3 victim, potential witness, juror, or judicial officer, or has
4 attempted or conspired to do so, and that no condition of
5 release will reasonably prevent the obstruction of the
6 judicial process;

7 3. The defendant is charged with trafficking in
8 controlled substances as defined by s. 893.135, that there is
9 a substantial probability that the defendant has committed the
10 offense, and that no conditions of release will reasonably
11 assure the defendant's appearance at subsequent criminal
12 proceedings; or

13 4. The defendant is charged with DUI manslaughter, as
14 defined by s. 316.193, and that there is a substantial
15 probability that the defendant committed the crime and that
16 the defendant poses a threat of harm to the community;
17 conditions that would support a finding by the court pursuant
18 to this subparagraph that the defendant poses a threat of harm
19 to the community include, but are not limited to, any of the
20 following:

21 a. The defendant has previously been convicted of any
22 crime under s. 316.193, or of any crime in any other state or
23 territory of the United States that is substantially similar
24 to any crime under s. 316.193;

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

27 c. The defendant has previously been found guilty of,
28 or has had adjudication of guilt withheld for, driving while
29 the defendant's driver's license was suspended or revoked in
30 violation of s. 322.34;

31

1 5. The defendant poses the threat of harm to the
2 community. The court may so conclude, if it finds that the
3 defendant is presently charged with a dangerous crime, that
4 there is a substantial probability that the defendant
5 committed such crime, that the factual circumstances of the
6 crime indicate a disregard for the safety of the community,
7 and that there are no conditions of release reasonably
8 sufficient to protect the community from the risk of physical
9 harm to persons.

10 6. The defendant was on probation, parole, or other
11 release pending completion of sentence or on pretrial release
12 for a dangerous crime at the time the current offense was
13 committed; or

14 7. The defendant has violated one or more conditions
15 of pretrial release or bond for the offense currently before
16 the court and the violation, in the discretion of the court,
17 supports a finding that no conditions of release can
18 reasonably protect the community from risk of physical harm to
19 persons or assure the presence of the accused at trial.

20 Section 17. For the purpose of incorporating the
21 amendment to section 893.135, Florida Statutes, in a reference
22 thereto, paragraphs (g), (h), and (i) of subsection (3) of
23 section 921.0022, Florida Statutes, are reenacted to read:

24 921.0022 Criminal Punishment Code; offense severity
25 ranking chart.--

26 (3) OFFENSE SEVERITY RANKING CHART

27 Florida	Felony	Description
28 Statute	Degree	
		(g) LEVEL 7
30 316.027(1)(b)	2nd	Accident involving death, failure 31 to stop; leaving scene.

1	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
2			injury.
3	316.1935(3)(b)	1st	Causing serious bodily injury or
4			death to another person; driving
5			at high speed or with wanton
6			disregard for safety while
7			fleeing or attempting to elude
8			law enforcement officer who is in
9			a patrol vehicle with siren and
10			lights activated.
11	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
12			bodily injury.
13	402.319(2)	2nd	Misrepresentation and negligence
14			or intentional act resulting in
15			great bodily harm, permanent
16			disfiguration, permanent
17			disability, or death.
18	409.920(2)	3rd	Medicaid provider fraud.
19	456.065(2)	3rd	Practicing a health care
20			profession without a license.
21	456.065(2)	2nd	Practicing a health care
22			profession without a license
23			which results in serious bodily
24			injury.
25	458.327(1)	3rd	Practicing medicine without a
26			license.
27	459.013(1)	3rd	Practicing osteopathic medicine
28			without a license.
29	460.411(1)	3rd	Practicing chiropractic medicine
30			without a license.
31			

1	461.012(1)	3rd	Practicing podiatric medicine
2			without a license.
3	462.17	3rd	Practicing naturopathy without a
4			license.
5	463.015(1)	3rd	Practicing optometry without a
6			license.
7	464.016(1)	3rd	Practicing nursing without a
8			license.
9	465.015(2)	3rd	Practicing pharmacy without a
10			license.
11	466.026(1)	3rd	Practicing dentistry or dental
12			hygiene without a license.
13	467.201	3rd	Practicing midwifery without a
14			license.
15	468.366	3rd	Delivering respiratory care
16			services without a license.
17	483.828(1)	3rd	Practicing as clinical laboratory
18			personnel without a license.
19	483.901(9)	3rd	Practicing medical physics
20			without a license.
21	484.013(1)(c)	3rd	Preparing or dispensing optical
22			devices without a prescription.
23	484.053	3rd	Dispensing hearing aids without a
24			license.
25	494.0018(2)	1st	Conviction of any violation of
26			ss. 494.001-494.0077 in which the
27			total money and property
28			unlawfully obtained exceeded
29			\$50,000 and there were five or
30			more victims.
31			

1	560.123(8)(b)1.	3rd	Failure to report currency or
2			payment instruments exceeding
3			\$300 but less than \$20,000 by
4			money transmitter.
5	560.125(5)(a)	3rd	Money transmitter business by
6			unauthorized person, currency or
7			payment instruments exceeding
8			\$300 but less than \$20,000.
9	655.50(10)(b)1.	3rd	Failure to report financial
10			transactions exceeding \$300 but
11			less than \$20,000 by financial
12			institution.
13	782.051(3)	2nd	Attempted felony murder of a
14			person by a person other than the
15			perpetrator or the perpetrator of
16			an attempted felony.
17	782.07(1)	2nd	Killing of a human being by the
18			act, procurement, or culpable
19			negligence of another
20			(manslaughter).
21	782.071	2nd	Killing of human being or viable
22			fetus by the operation of a motor
23			vehicle in a reckless manner
24			(vehicular homicide).
25	782.072	2nd	Killing of a human being by the
26			operation of a vessel in a
27			reckless manner (vessel
28			homicide).
29	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
30			causing great bodily harm or
31			disfigurement.

1	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
2			weapon.
3	784.045(1)(b)	2nd	Aggravated battery; perpetrator
4			aware victim pregnant.
5	784.048(4)	3rd	Aggravated stalking; violation of
6			injunction or court order.
7	784.048(7)	3rd	Aggravated stalking; violation of
8			court order.
9	784.07(2)(d)	1st	Aggravated battery on law
10			enforcement officer.
11	784.074(1)(a)	1st	Aggravated battery on sexually
12			violent predators facility staff.
13	784.08(2)(a)	1st	Aggravated battery on a person 65
14			years of age or older.
15	784.081(1)	1st	Aggravated battery on specified
16			official or employee.
17	784.082(1)	1st	Aggravated battery by detained
18			person on visitor or other
19			detainee.
20	784.083(1)	1st	Aggravated battery on code
21			inspector.
22	790.07(4)	1st	Specified weapons violation
23			subsequent to previous conviction
24			of s. 790.07(1) or (2).
25	790.16(1)	1st	Discharge of a machine gun under
26			specified circumstances.
27	790.165(2)	2nd	Manufacture, sell, possess, or
28			deliver hoax bomb.
29			
30			
31			

1	790.165(3)	2nd	Possessing, displaying, or
2			threatening to use any hoax bomb
3			while committing or attempting to
4			commit a felony.
5	790.166(3)	2nd	Possessing, selling, using, or
6			attempting to use a hoax weapon
7			of mass destruction.
8	790.166(4)	2nd	Possessing, displaying, or
9			threatening to use a hoax weapon
10			of mass destruction while
11			committing or attempting to
12			commit a felony.
13	796.03	2nd	Procuring any person under 16
14			years for prostitution.
15	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
16			victim less than 12 years of age;
17			offender less than 18 years.
18	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
19			victim 12 years of age or older
20			but less than 16 years; offender
21			18 years or older.
22	806.01(2)	2nd	Maliciously damage structure by
23			fire or explosive.
24	810.02(3)(a)	2nd	Burglary of occupied dwelling;
25			unarmed; no assault or battery.
26	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
27			unarmed; no assault or battery.
28	810.02(3)(d)	2nd	Burglary of occupied conveyance;
29			unarmed; no assault or battery.
30			
31			

1	812.014(2)(a)1.	1st	Property stolen, valued at
2			\$100,000 or more; property stolen
3			while causing other property
4			damage; 1st degree grand theft.
5	812.014(2)(b)2.	2nd	Property stolen, cargo valued at
6			less than \$50,000, grand theft in
7			2nd degree.
8	812.014(2)(b)3.	2nd	Property stolen, emergency
9			medical equipment; 2nd degree
10			grand theft.
11	812.0145(2)(a)	1st	Theft from person 65 years of age
12			or older; \$50,000 or more.
13	812.019(2)	1st	Stolen property; initiates,
14			organizes, plans, etc., the theft
15			of property and traffics in
16			stolen property.
17	812.131(2)(a)	2nd	Robbery by sudden snatching.
18	812.133(2)(b)	1st	Carjacking; no firearm, deadly
19			weapon, or other weapon.
20	817.234(8)(a)	2nd	Solicitation of motor vehicle
21			accident victims with intent to
22			defraud.
23	817.234(9)	2nd	Organizing, planning, or
24			participating in an intentional
25			motor vehicle collision.
26	817.234(11)(c)	1st	Insurance fraud; property value
27			\$100,000 or more.
28			
29			
30			
31			

1	817.2341(2)(b) &	1st	Making false entries of material
2	(3)(b)		fact or false statements
3			regarding property values
4			relating to the solvency of an
5			insuring entity which are a
6			significant cause of the
7			insolvency of that entity.
8	825.102(3)(b)	2nd	Neglecting an elderly person or
9			disabled adult causing great
10			bodily harm, disability, or
11			disfigurement.
12	825.103(2)(b)	2nd	Exploiting an elderly person or
13			disabled adult and property is
14			valued at \$20,000 or more, but
15			less than \$100,000.
16	827.03(3)(b)	2nd	Neglect of a child causing great
17			bodily harm, disability, or
18			disfigurement.
19	827.04(3)	3rd	Impregnation of a child under 16
20			years of age by person 21 years
21			of age or older.
22	837.05(2)	3rd	Giving false information about
23			alleged capital felony to a law
24			enforcement officer.
25	838.015	2nd	Bribery.
26	838.016	2nd	Unlawful compensation or reward
27			for official behavior.
28	838.021(3)(a)	2nd	Unlawful harm to a public
29			servant.
30	838.22	2nd	Bid tampering.
31	872.06	2nd	Abuse of a dead human body.

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

1	893.135(1)(d)1.	1st	Trafficking in phencyclidine,
2			more than 28 grams, less than 200
3			grams.
4	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
5			than 200 grams, less than 5
6			kilograms.
7	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
8			than 14 grams, less than 28
9			grams.
10	893.135(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
11			grams or more, less than 14
12			grams.
13	893.135(1)(h)1.a.	1st	Trafficking in
14			gamma-hydroxybutyric acid (GHB),
15			1 kilogram or more, less than 5
16			kilograms.
17	893.135(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1
18			kilogram or more, less than 5
19			kilograms.
20	893.135(1)(k)2.a.	1st	Trafficking in Phenethylamines,
21			10 grams or more, less than 200
22			grams.
23	896.101(5)(a)	3rd	Money laundering, financial
24			transactions exceeding \$300 but
25			less than \$20,000.
26	896.104(4)(a)1.	3rd	Structuring transactions to evade
27			reporting or registration
28			requirements, financial
29			transactions exceeding \$300 but
30			less than \$20,000.
31			(h) LEVEL 8

1	316.193(3)(c)3.a.	2nd	DUI manslaughter.
2	316.1935(4)(b)	1st	Aggravated fleeing or attempted
3			eluding with serious bodily
4			injury or death.
5	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
6	499.0051(7)	1st	Forgery of prescription or legend
7			drug labels.
8	499.0052	1st	Trafficking in contraband legend
9			drugs.
10	560.123(8)(b)2.	2nd	Failure to report currency or
11			payment instruments totaling or
12			exceeding \$20,000, but less than
13			\$100,000 by money transmitter.
14	560.125(5)(b)	2nd	Money transmitter business by
15			unauthorized person, currency or
16			payment instruments totaling or
17			exceeding \$20,000, but less than
18			\$100,000.
19	655.50(10)(b)2.	2nd	Failure to report financial
20			transactions totaling or
21			exceeding \$20,000, but less than
22			\$100,000 by financial
23			institutions.
24	777.03(2)(a)	1st	Accessory after the fact, capital
25			felony.
26			
27			
28			
29			
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1	782.04(4)	2nd	Killing of human without design
2			when engaged in act or attempt of
3			any felony other than arson,
4			sexual battery, robbery,
5			burglary, kidnapping, aircraft
6			piracy, or unlawfully discharging
7			bomb.
8	782.051(2)	1st	Attempted felony murder while
9			perpetrating or attempting to
10			perpetrate a felony not
11			enumerated in s. 782.04(3).
12	782.071(1)(b)	1st	Committing vehicular homicide and
13			failing to render aid or give
14			information.
15	782.072(2)	1st	Committing vessel homicide and
16			failing to render aid or give
17			information.
18	790.161(3)	1st	Discharging a destructive device
19			which results in bodily harm or
20			property damage.
21	794.011(5)	2nd	Sexual battery, victim 12 years
22			or over, offender does not use
23			physical force likely to cause
24			serious injury.
25	800.04(4)	2nd	Lewd or lascivious battery.
26	806.01(1)	1st	Maliciously damage dwelling or
27			structure by fire or explosive,
28			believing person in structure.
29	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
30	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
31			or dangerous weapon.

1	810.02(2)(c)	1st	Burglary of a dwelling or
2			structure causing structural
3			damage or \$1,000 or more property
4			damage.
5	812.014(2)(a)2.	1st	Property stolen; cargo valued at
6			\$50,000 or more, grand theft in
7			1st degree.
8	812.13(2)(b)	1st	Robbery with a weapon.
9	812.135(2)(c)	1st	Home-invasion robbery, no
10			firearm, deadly weapon, or other
11			weapon.
12	817.568(6)	2nd	Fraudulent use of personal
13			identification information of an
14			individual under the age of 18.
15	825.102(2)	2nd	Aggravated abuse of an elderly
16			person or disabled adult.
17	825.1025(2)	2nd	Lewd or lascivious battery upon
18			an elderly person or disabled
19			adult.
20	825.103(2)(a)	1st	Exploiting an elderly person or
21			disabled adult and property is
22			valued at \$100,000 or more.
23	837.02(2)	2nd	Perjury in official proceedings
24			relating to prosecution of a
25			capital felony.
26	837.021(2)	2nd	Making contradictory statements
27			in official proceedings relating
28			to prosecution of a capital
29			felony.
30			
31			

1	860.121(2)(c)	1st	Shooting at or throwing any
2			object in path of railroad
3			vehicle resulting in great bodily
4			harm.
5	860.16	1st	Aircraft piracy.
6	893.13(1)(b)	1st	Sell or deliver in excess of 10
7			grams of any substance specified
8			in s. 893.03(1)(a) or (b).
9	893.13(2)(b)	1st	Purchase in excess of 10 grams of
10			any substance specified in s.
11			893.03(1)(a) or (b).
12	893.13(6)(c)	1st	Possess in excess of 10 grams of
13			any substance specified in s.
14			893.03(1)(a) or (b).
15	893.135(1)(a)2.	1st	Trafficking in cannabis, more
16			than 2,000 lbs., less than 10,000
17			lbs.
18	893.135(1)(b)1.b.	1st	Trafficking in cocaine, more than
19			200 grams, less than 400 grams.
20	893.135(1)(c)1.b.	1st	Trafficking in illegal drugs,
21			more than 14 grams, less than 28
22			grams.
23	893.135(1)(d)1.b.	1st	Trafficking in phencyclidine,
24			more than 200 grams, less than
25			400 grams.
26	893.135(1)(e)1.b.	1st	Trafficking in methaqualone, more
27			than 5 kilograms, less than 25
28			kilograms.
29	893.135(1)(f)1.b.	1st	Trafficking in amphetamine, more
30			than 28 grams, less than 200
31			grams.

1	893.135(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
2			grams or more, less than 28
3			grams.
4	893.135(1)(h)1.b.	1st	Trafficking in
5			gamma-hydroxybutyric acid (GHB),
6			5 kilograms or more, less than 10
7			kilograms.
8	893.135(1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5
9			kilograms or more, less than 10
10			kilograms.
11	893.135(1)(k)2.b.	1st	Trafficking in Phenethylamines,
12			200 grams or more, less than 400
13			grams.
14	895.03(1)	1st	Use or invest proceeds derived
15			from pattern of racketeering
16			activity.
17	895.03(2)	1st	Acquire or maintain through
18			racketeering activity any
19			interest in or control of any
20			enterprise or real property.
21	895.03(3)	1st	Conduct or participate in any
22			enterprise through pattern of
23			racketeering activity.
24	896.101(5)(b)	2nd	Money laundering, financial
25			transactions totaling or
26			exceeding \$20,000, but less than
27			\$100,000.
28			
29			
30			
31			

1	896.104(4)(a)2.	2nd	Structuring transactions to evade
2			reporting or registration
3			requirements, financial
4			transactions totaling or
5			exceeding \$20,000 but less than
6			\$100,000.
7			(i) LEVEL 9
8	316.193(3)(c)3.b.	1st	DUI manslaughter; failing to
9			render aid or give information.
10	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to
11			render aid or give information.
12	499.0053	1st	Sale or purchase of contraband
13			legend drugs resulting in great
14			bodily harm.
15	560.123(8)(b)3.	1st	Failure to report currency or
16			payment instruments totaling or
17			exceeding \$100,000 by money
18			transmitter.
19	560.125(5)(c)	1st	Money transmitter business by
20			unauthorized person, currency, or
21			payment instruments totaling or
22			exceeding \$100,000.
23	655.50(10)(b)3.	1st	Failure to report financial
24			transactions totaling or
25			exceeding \$100,000 by financial
26			institution.
27	775.0844	1st	Aggravated white collar crime.
28	782.04(1)	1st	Attempt, conspire, or solicit to
29			commit premeditated murder.
30			
31			

1	782.04(3)	1st,PBL	Accomplice to murder in
2			connection with arson, sexual
3			battery, robbery, burglary, and
4			other specified felonies.
5	782.051(1)	1st	Attempted felony murder while
6			perpetrating or attempting to
7			perpetrate a felony enumerated in
8			s. 782.04(3).
9	782.07(2)	1st	Aggravated manslaughter of an
10			elderly person or disabled adult.
11	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
12			reward or as a shield or hostage.
13	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
14			or facilitate commission of any
15			felony.
16	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
17			interfere with performance of any
18			governmental or political
19			function.
20	787.02(3)(a)	1st	False imprisonment; child under
21			age 13; perpetrator also commits
22			aggravated child abuse, sexual
23			battery, or lewd or lascivious
24			battery, molestation, conduct, or
25			exhibition.
26	790.161	1st	Attempted capital destructive
27			device offense.
28	790.166(2)	1st,PBL	Possessing, selling, using, or
29			attempting to use a weapon of
30			mass destruction.
31			

1	794.011(2)	1st	Attempted sexual battery; victim
2			less than 12 years of age.
3	794.011(2)	Life	Sexual battery; offender younger
4			than 18 years and commits sexual
5			battery on a person less than 12
6			years.
7	794.011(4)	1st	Sexual battery; victim 12 years
8			or older, certain circumstances.
9	794.011(8)(b)	1st	Sexual battery; engage in sexual
10			conduct with minor 12 to 18 years
11			by person in familial or
12			custodial authority.
13	800.04(5)(b)	1st	Lewd or lascivious molestation;
14			victim less than 12 years;
15			offender 18 years or older.
16	812.13(2)(a)	1st,PBL	Robbery with firearm or other
17			deadly weapon.
18	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
19			deadly weapon.
20	812.135(2)(b)	1st	Home-invasion robbery with
21			weapon.
22	817.568(7)	2nd,PBL	Fraudulent use of personal
23			identification information of an
24			individual under the age of 18 by
25			his or her parent, legal
26			guardian, or person exercising
27			custodial authority.
28	827.03(2)	1st	Aggravated child abuse.
29	847.0145(1)	1st	Selling, or otherwise
30			transferring custody or control,
31			of a minor.

1	847.0145(2)	1st	Purchasing, or otherwise
2			obtaining custody or control, of
3			a minor.
4	859.01	1st	Poisoning or introducing
5			bacteria, radioactive materials,
6			viruses, or chemical compounds
7			into food, drink, medicine, or
8			water with intent to kill or
9			injure another person.
10	893.135	1st	Attempted capital trafficking
11			offense.
12	893.135(1)(a)3.	1st	Trafficking in cannabis, more
13			than 10,000 lbs.
14	893.135(1)(b)1.c.	1st	Trafficking in cocaine, more than
15			400 grams, less than 150
16			kilograms.
17	893.135(1)(c)1.c.	1st	Trafficking in illegal drugs,
18			more than 28 grams, less than 30
19			kilograms.
20	893.135(1)(d)1.c.	1st	Trafficking in phencyclidine,
21			more than 400 grams.
22	893.135(1)(e)1.c.	1st	Trafficking in methaqualone, more
23			than 25 kilograms.
24	893.135(1)(f)1.c.	1st	Trafficking in amphetamine, more
25			than 200 grams.
26	893.135(1)(h)1.c.	1st	Trafficking in
27			gamma-hydroxybutyric acid (GHB),
28			10 kilograms or more.
29	893.135(1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10
30			kilograms or more.
31			

1 893.135(1)(k)2.c. 1st Trafficking in Phenethylamines,
2 400 grams or more.
3 896.101(5)(c) 1st Money laundering, financial
4 instruments totaling or exceeding
5 \$100,000.
6 896.104(4)(a)3. 1st Structuring transactions to evade
7 reporting or registration
8 requirements, financial
9 transactions totaling or
10 exceeding \$100,000.

11 Section 18. For the purpose of incorporating the
12 amendment to section 893.135, Florida Statutes, in a reference
13 thereto, subsection (1) of section 921.0024, Florida Statutes,
14 is reenacted to read:

15 921.0024 Criminal Punishment Code; worksheet
16 computations; scoresheets.--

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

19

20 FLORIDA CRIMINAL PUNISHMENT CODE

21 WORKSHEET

22

23 OFFENSE SCORE

24

25 Primary Offense

26 Level	Sentence Points		Total
27			
28 10	116	=	....
29 9	92	=	....
30 8	74	=	....
31 7	56	=	....

1	6	36		=	.....
2	5	28		=	.....
3	4	22		=	.....
4	3	16		=	.....
5	2	10		=	.....
6	1	4		=	.....
7					
8	.....			
9					Total
10					
11	Additional Offenses				
12	Level	Sentence Points		Counts	Total
13	.....			
14	10	58	x	.....	= ..... .....
15	9	46	x	.....	= ..... .....
16	8	37	x	.....	= ..... .....
17	7	28	x	.....	= ..... .....
18	6	18	x	.....	= ..... .....
19	5	5.4	x	.....	= ..... .....
20	4	3.6	x	.....	= ..... .....
21	3	2.4	x	.....	= ..... .....
22	2	1.2	x	.....	= ..... .....
23	1	0.7	x	.....	= ..... .....
24	M	0.2	x	.....	= ..... .....
25					
26	.....			
27					Total
28					
29	Victim Injury				
30	Level	Sentence Points		Number	Total
31	.....			

1	2nd degree					
2	murder-					
3	death	240	x	....	=	....
4	Death	120	x	....	=	....
5	Severe	40	x	....	=	....
6	Moderate	18	x	....	=	....
7	Slight	4	x	....	=	....
8	Sexual					
9	penetration	80	x	....	=	....
10	Sexual					
11	contact	40	x	....	=	....
12						
13	.....				
14					Total	
15						
16	Primary Offense + Additional Offenses + Victim Injury =					
17	TOTAL OFFENSE SCORE					
18						
19	PRIOR RECORD SCORE					
20						
21	Prior Record					
22	Level	Sentence Points		Number		Total
23	.....				
24	10	29	x	....	=	....
25	9	23	x	....	=	....
26	8	19	x	....	=	....
27	7	14	x	....	=	....
28	6	9	x	....	=	....
29	5	3.6	x	....	=	....
30	4	2.4	x	....	=	....
31	3	1.6	x	....	=	....

1	2	0.8	x	....	=	....
2	1	0.5	x	....	=	....
3	M	0.2	x	....	=	....
4						
5	.....				
6					Total	
7						
8	TOTAL OFFENSE SCORE.....					
9	TOTAL PRIOR RECORD SCORE.....					
10						
11	LEGAL STATUS.....					
12	COMMUNITY SANCTION VIOLATION.....					
13	PRIOR SERIOUS FELONY.....					
14	PRIOR CAPITAL FELONY.....					
15	FIREARM OR SEMIAUTOMATIC WEAPON.....					
16					SUBTOTAL.....	
17						
18	PRISON RELEASEE REOFFENDER (no)(yes).....					
19	VIOLENT CAREER CRIMINAL (no)(yes).....					
20	HABITUAL VIOLENT OFFENDER (no)(yes).....					
21	HABITUAL OFFENDER (no)(yes).....					
22	DRUG TRAFFICKER (no)(yes) (x multiplier).....					
23	LAW ENF. PROTECT. (no)(yes) (x multiplier).....					
24	MOTOR VEHICLE THEFT (no)(yes) (x multiplier).....					
25	CRIMINAL STREET GANG OFFENSE (no)(yes) (x multiplier).....					
26	DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD					
27	(no)(yes) (x multiplier).....					
28	.....				
29					TOTAL SENTENCE POINTS.....	
30						
31					(b) WORKSHEET KEY:	

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

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

20
21 Prior serious felony points: If the offender has a primary
22 offense or any additional offense ranked in level 8, level 9,
23 or level 10, and one or more prior serious felonies, a single
24 assessment of 30 points shall be added. For purposes of this
25 section, a prior serious felony is an offense in the
26 offender's prior record that is ranked in level 8, level 9, or
27 level 10 under s. 921.0022 or s. 921.0023 and for which the
28 offender is serving a sentence of confinement, supervision, or
29 other sanction or for which the offender's date of release
30 from confinement, supervision, or other sanction, whichever is
31

1 later, is within 3 years before the date the primary offense
2 or any additional offense was committed.
3
4 Prior capital felony points: If the offender has one or more
5 prior capital felonies in the offender's criminal record,
6 points shall be added to the subtotal sentence points of the
7 offender equal to twice the number of points the offender
8 receives for the primary offense and any additional offense. A
9 prior capital felony in the offender's criminal record is a
10 previous capital felony offense for which the offender has
11 entered a plea of nolo contendere or guilty or has been found
12 guilty; or a felony in another jurisdiction which is a capital
13 felony in that jurisdiction, or would be a capital felony if
14 the offense were committed in this state.
15
16 Possession of a firearm, semiautomatic firearm, or machine
17 gun: If the offender is convicted of committing or attempting
18 to commit any felony other than those enumerated in s.
19 775.087(2) while having in his or her possession: a firearm as
20 defined in s. 790.001(6), an additional 18 sentence points are
21 assessed; or if the offender is convicted of committing or
22 attempting to commit any felony other than those enumerated in
23 s. 775.087(3) while having in his or her possession a
24 semiautomatic firearm as defined in s. 775.087(3) or a machine
25 gun as defined in s. 790.001(9), an additional 25 sentence
26 points are assessed.
27
28 Sentencing multipliers:
29
30 Drug trafficking: If the primary offense is drug trafficking
31 under s. 893.135, the subtotal sentence points are multiplied,

1 | at the discretion of the court, for a level 7 or level 8
2 | offense, by 1.5. The state attorney may move the sentencing
3 | court to reduce or suspend the sentence of a person convicted
4 | of a level 7 or level 8 offense, if the offender provides
5 | substantial assistance as described in s. 893.135(4).
6 |
7 | Law enforcement protection: If the primary offense is a
8 | violation of the Law Enforcement Protection Act under s.
9 | 775.0823(2), the subtotal sentence points are multiplied by
10 | 2.5. If the primary offense is a violation of s. 775.0823(3),
11 | (4), (5), (6), (7), or (8), the subtotal sentence points are
12 | multiplied by 2.0. If the primary offense is a violation of s.
13 | 784.07(3) or s. 775.0875(1), or of the Law Enforcement
14 | Protection Act under s. 775.0823(9) or (10), the subtotal
15 | sentence points are multiplied by 1.5.
16 |
17 | Grand theft of a motor vehicle: If the primary offense is
18 | grand theft of the third degree involving a motor vehicle and
19 | in the offender's prior record, there are three or more grand
20 | thefts of the third degree involving a motor vehicle, the
21 | subtotal sentence points are multiplied by 1.5.
22 |
23 | Offense related to a criminal street gang: If the offender is
24 | convicted of the primary offense and committed that offense
25 | for the purpose of benefiting, promoting, or furthering the
26 | interests of a criminal street gang as prohibited under s.
27 | 874.04, the subtotal sentence points are multiplied by 1.5.
28 |
29 | Domestic violence in the presence of a child: If the offender
30 | is convicted of the primary offense and the primary offense is
31 | a crime of domestic violence, as defined in s. 741.28, which

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

5 | Section 19. For the purpose of incorporating the
6 | amendment to section 893.135, Florida Statutes, in a reference
7 | thereto, subsection (2) of section 921.142, Florida Statutes,
8 | is reenacted to read:

9 | 921.142 Sentence of death or life imprisonment for
10 | capital drug trafficking felonies; further proceedings to
11 | determine sentence.--

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

1 | evidence which the court deems to have probative value may be
2 | received, regardless of its admissibility under the
3 | exclusionary rules of evidence, provided the defendant is
4 | accorded a fair opportunity to rebut any hearsay statements.
5 | However, this subsection shall not be construed to authorize
6 | the introduction of any evidence secured in violation of the
7 | Constitution of the United States or the Constitution of the
8 | State of Florida. The state and the defendant or the
9 | defendant's counsel shall be permitted to present argument for
10 | or against sentence of death.

11 | Section 20. For the purpose of incorporating the
12 | amendment to section 893.13, Florida Statutes, in a reference
13 | thereto, subsection (1) of section 921.187, Florida Statutes,
14 | is reenacted to read:

15 | 921.187 Disposition and sentencing; alternatives;
16 | restitution.--

17 | (1) The alternatives provided in this section for the
18 | disposition of criminal cases shall be used in a manner that
19 | will best serve the needs of society, punish criminal
20 | offenders, and provide the opportunity for rehabilitation.

21 | (a) If the offender does not receive a state prison
22 | sentence, the court may:

23 | 1. Impose a split sentence whereby the offender is to
24 | be placed on probation upon completion of any specified period
25 | of such sentence, which period may include a term of years or
26 | less.

27 | 2. Make any other disposition that is authorized by
28 | law.

29 | 3. Place the offender on probation with or without an
30 | adjudication of guilt pursuant to s. 948.01.

31 |

1 4. Impose a fine and probation pursuant to s. 948.011
2 when the offense is punishable by both a fine and imprisonment
3 and probation is authorized.

4 5. Place the offender into community control requiring
5 intensive supervision and surveillance pursuant to chapter
6 948.

7 6. Impose, as a condition of probation or community
8 control, a period of treatment which shall be restricted to a
9 county facility, a Department of Corrections probation and
10 restitution center, a probation program drug punishment
11 treatment community, or a community residential or
12 nonresidential facility, excluding a community correctional
13 center as defined in s. 944.026, which is owned and operated
14 by any qualified public or private entity providing such
15 services. Before admission to such a facility, the court shall
16 obtain an individual assessment and recommendations on the
17 appropriate treatment needs, which shall be considered by the
18 court in ordering such placements. Placement in such a
19 facility, except for a county residential probation facility,
20 may not exceed 364 days. Placement in a county residential
21 probation facility may not exceed 3 years. Early termination
22 of placement may be recommended to the court, when
23 appropriate, by the center supervisor, the supervising
24 probation officer, or the probation program manager.

25 7. Sentence the offender pursuant to s. 922.051 to
26 imprisonment in a county jail when a statute directs
27 imprisonment in a state prison, if the offender's cumulative
28 sentence, whether from the same circuit or from separate
29 circuits, is not more than 364 days.

30 8. Sentence the offender who is to be punished by
31 imprisonment in a county jail to a jail in another county if

1 | there is no jail within the county suitable for such prisoner
2 | pursuant to s. 950.01.

3 | 9. Require the offender to participate in a
4 | work-release or educational or technical training program
5 | pursuant to s. 951.24 while serving a sentence in a county
6 | jail, if such a program is available.

7 | 10. Require the offender to perform a specified public
8 | service pursuant to s. 775.091.

9 | 11. Require the offender who violates chapter 893 or
10 | violates any law while under the influence of a controlled
11 | substance or alcohol to participate in a substance abuse
12 | program.

13 | 12.a. Require the offender who violates any criminal
14 | provision of chapter 893 to pay an additional assessment in an
15 | amount up to the amount of any fine imposed, pursuant to ss.
16 | 938.21 and 938.23.

17 | b. Require the offender who violates any provision of
18 | s. 893.13 to pay an additional assessment in an amount of
19 | \$100, pursuant to ss. 938.25 and 943.361.

20 | 13. Impose a split sentence whereby the offender is to
21 | be placed in a county jail or county work camp upon the
22 | completion of any specified term of community supervision.

23 | 14. Impose split probation whereby upon satisfactory
24 | completion of half the term of probation, the Department of
25 | Corrections may place the offender on administrative probation
26 | pursuant to s. 948.013 for the remainder of the term of
27 | supervision.

28 | 15. Require residence in a state probation and
29 | restitution center or private drug treatment program for
30 | offenders on community control or offenders who have violated
31 | conditions of probation.

1 16. Impose any other sanction which is provided within
2 the community and approved as an intermediate sanction by the
3 county public safety coordinating council as described in s.
4 951.26.

5 17. Impose, as a condition of community control,
6 probation, or probation following incarceration, a requirement
7 that an offender who has not obtained a high school diploma or
8 high school equivalency diploma or who lacks basic or
9 functional literacy skills, upon acceptance by an adult
10 education program, make a good faith effort toward completion
11 of such basic or functional literacy skills or high school
12 equivalency diploma, as defined in s. 1003.435, in accordance
13 with the assessed adult general education needs of the
14 individual offender.

15 (b)1. Notwithstanding any provision of former s.
16 921.001 or s. 921.002 to the contrary, on or after October 1,
17 1993, the court may require any defendant who violates s.
18 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and
19 meets the criteria described in s. 893.13(10), to successfully
20 complete a term of probation pursuant to the terms and
21 conditions set forth in s. 948.034(1), in lieu of serving a
22 term of imprisonment.

23 2. Notwithstanding any provision of former s. 921.001
24 or s. 921.002 to the contrary, on or after October 1, 1993,
25 the court may require any defendant who violates s.
26 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), and meets the
27 criteria described in s. 893.13(11), to successfully complete
28 a term of probation pursuant to the terms and conditions set
29 forth in s. 948.034(2), in lieu of serving a term of
30 imprisonment.
31

1 Section 21. For the purpose of incorporating the
2 amendment to section 893.13, Florida Statutes, in a reference
3 thereto, section 938.25, Florida Statutes, is reenacted to
4 read:

5 938.25 Operating Trust Fund of the Department of Law
6 Enforcement.--Notwithstanding any provision to the contrary of
7 the laws of this state, the court may assess any defendant who
8 pleads guilty or nolo contendere to, or is convicted of, a
9 violation of any provision of s. 893.13, without regard to
10 whether adjudication was withheld, in addition to any fine and
11 other penalty provided or authorized by law, an amount of
12 \$100, to be paid to the clerk of the court, who shall forward
13 it to the Department of Revenue for deposit in the Operating
14 Trust Fund of the Department of Law Enforcement to be used by
15 the statewide criminal analysis laboratory system for the
16 purposes specified in s. 943.361. The court is authorized to
17 order a defendant to pay an additional assessment if it finds
18 that the defendant has the ability to pay the fine and the
19 additional assessment and will not be prevented thereby from
20 being rehabilitated or from making restitution.

21 Section 22. For the purpose of incorporating the
22 amendment to section 893.135, Florida Statutes, in references
23 thereto, section 943.0585, Florida Statutes, is reenacted to
24 read:

25 943.0585 Court-ordered expunction of criminal history
26 records.--The courts of this state have jurisdiction over
27 their own procedures, including the maintenance, expunction,
28 and correction of judicial records containing criminal history
29 information to the extent such procedures are not inconsistent
30 with the conditions, responsibilities, and duties established
31 by this section. Any court of competent jurisdiction may order

1 a criminal justice agency to expunge the criminal history
2 record of a minor or an adult who complies with the
3 requirements of this section. The court shall not order a
4 criminal justice agency to expunge a criminal history record
5 until the person seeking to expunge a criminal history record
6 has applied for and received a certificate of eligibility for
7 expunction pursuant to subsection (2). A criminal history
8 record that relates to a violation of s. 393.135, s. 394.4593,
9 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.
10 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
11 s. 847.0145, s. 893.135, s. 916.1075, or a violation
12 enumerated in s. 907.041 may not be expunged, without regard
13 to whether adjudication was withheld, if the defendant was
14 found guilty of or pled guilty or nolo contendere to the
15 offense, or if the defendant, as a minor, was found to have
16 committed, or pled guilty or nolo contendere to committing,
17 the offense as a delinquent act. The court may only order
18 expunction of a criminal history record pertaining to one
19 arrest or one incident of alleged criminal activity, except as
20 provided in this section. The court may, at its sole
21 discretion, order the expunction of a criminal history record
22 pertaining to more than one arrest if the additional arrests
23 directly relate to the original arrest. If the court intends
24 to order the expunction of records pertaining to such
25 additional arrests, such intent must be specified in the
26 order. A criminal justice agency may not expunge any record
27 pertaining to such additional arrests if the order to expunge
28 does not articulate the intention of the court to expunge a
29 record pertaining to more than one arrest. This section does
30 not prevent the court from ordering the expunction of only a
31 portion of a criminal history record pertaining to one arrest

1 or one incident of alleged criminal activity. Notwithstanding
2 any law to the contrary, a criminal justice agency may comply
3 with laws, court orders, and official requests of other
4 jurisdictions relating to expunction, correction, or
5 confidential handling of criminal history records or
6 information derived therefrom. This section does not confer
7 any right to the expunction of any criminal history record,
8 and any request for expunction of a criminal history record
9 may be denied at the sole discretion of the court.

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

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

15 (b) The petitioner's sworn statement attesting that
16 the petitioner:

17 1. Has never, prior to the date on which the petition
18 is filed, been adjudicated guilty of a criminal offense or
19 comparable ordinance violation or adjudicated delinquent for
20 committing a felony or a misdemeanor specified in s.
21 943.051(3)(b).

22 2. Has not been adjudicated guilty of, or adjudicated
23 delinquent for committing, any of the acts stemming from the
24 arrest or alleged criminal activity to which the petition
25 pertains.

26 3. Has never secured a prior sealing or expunction of
27 a criminal history record under this section, former s.
28 893.14, former s. 901.33, or former s. 943.058, or from any
29 jurisdiction outside the state.

30 4. Is eligible for such an expunction to the best of
31 his or her knowledge or belief and does not have any other

1 petition to expunge or any petition to seal pending before any
2 court.

3
4 Any person who knowingly provides false information on such
5 sworn statement to the court commits a felony of the third
6 degree, punishable as provided in s. 775.082, s. 775.083, or
7 s. 775.084.

8 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior
9 to petitioning the court to expunge a criminal history record,
10 a person seeking to expunge a criminal history record shall
11 apply to the department for a certificate of eligibility for
12 expunction. The department shall, by rule adopted pursuant to
13 chapter 120, establish procedures pertaining to the
14 application for and issuance of certificates of eligibility
15 for expunction. The department shall issue a certificate of
16 eligibility for expunction to a person who is the subject of a
17 criminal history record if that person:

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

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

23 2. That an indictment, information, or other charging
24 document, if filed or issued in the case, was dismissed or
25 nolle prosequi by the state attorney or statewide prosecutor,
26 or was dismissed by a court of competent jurisdiction.

27 3. That the criminal history record does not relate to
28 a violation of s. 393.135, s. 394.4593, s. 787.025, chapter
29 794, s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s.
30 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
31 s. 893.135, s. 916.1075, or a violation enumerated in s.

1 907.041, where the defendant was found guilty of, or pled
2 guilty or nolo contendere to any such offense, or that the
3 defendant, as a minor, was found to have committed, or pled
4 guilty or nolo contendere to committing, such an offense as a
5 delinquent act, without regard to whether adjudication was
6 withheld.

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

10 (c) Has submitted to the department a certified copy
11 of the disposition of the charge to which the petition to
12 expunge pertains.

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

18 (e) Has not been adjudicated guilty of, or adjudicated
19 delinquent for committing, any of the acts stemming from the
20 arrest or alleged criminal activity to which the petition to
21 expunge pertains.

22 (f) Has never secured a prior sealing or expunction of
23 a criminal history record under this section, former s.
24 893.14, former s. 901.33, or former s. 943.058.

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

28 (h) Is not required to wait a minimum of 10 years
29 prior to being eligible for an expunction of such records
30 because all charges related to the arrest or criminal activity
31 to which the petition to expunge pertains were dismissed prior

1 | to trial, adjudication, or the withholding of adjudication.
2 | Otherwise, such criminal history record must be sealed under
3 | this section, former s. 893.14, former s. 901.33, or former s.
4 | 943.058 for at least 10 years before such record is eligible
5 | for expunction.

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

7 | (a) In judicial proceedings under this section, a copy
8 | of the completed petition to expunge shall be served upon the
9 | appropriate state attorney or the statewide prosecutor and
10 | upon the arresting agency; however, it is not necessary to
11 | make any agency other than the state a party. The appropriate
12 | state attorney or the statewide prosecutor and the arresting
13 | agency may respond to the court regarding the completed
14 | petition to expunge.

15 | (b) If relief is granted by the court, the clerk of
16 | the court shall certify copies of the order to the appropriate
17 | state attorney or the statewide prosecutor and the arresting
18 | agency. The arresting agency is responsible for forwarding the
19 | order to any other agency to which the arresting agency
20 | disseminated the criminal history record information to which
21 | the order pertains. The department shall forward the order to
22 | expunge to the Federal Bureau of Investigation. The clerk of
23 | the court shall certify a copy of the order to any other
24 | agency which the records of the court reflect has received the
25 | criminal history record from the court.

26 | (c) For an order to expunge entered by a court prior
27 | to July 1, 1992, the department shall notify the appropriate
28 | state attorney or statewide prosecutor of an order to expunge
29 | which is contrary to law because the person who is the subject
30 | of the record has previously been convicted of a crime or
31 | comparable ordinance violation or has had a prior criminal

1 | history record sealed or expunged. Upon receipt of such
2 | notice, the appropriate state attorney or statewide prosecutor
3 | shall take action, within 60 days, to correct the record and
4 | petition the court to void the order to expunge. The
5 | department shall seal the record until such time as the order
6 | is voided by the court.

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

23 | (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
24 | criminal history record of a minor or an adult which is
25 | ordered expunged by a court of competent jurisdiction pursuant
26 | to this section must be physically destroyed or obliterated by
27 | any criminal justice agency having custody of such record;
28 | except that any criminal history record in the custody of the
29 | department must be retained in all cases. A criminal history
30 | record ordered expunged that is retained by the department is
31 | confidential and exempt from the provisions of s. 119.07(1)

1 and s. 24(a), Art. I of the State Constitution and not
2 available to any person or entity except upon order of a court
3 of competent jurisdiction. A criminal justice agency may
4 retain a notation indicating compliance with an order to
5 expunge.

6 (a) The person who is the subject of a criminal
7 history record that is expunged under this section or under
8 other provisions of law, including former s. 893.14, former s.
9 901.33, and former s. 943.058, may lawfully deny or fail to
10 acknowledge the arrests covered by the expunged record, except
11 when the subject of the record:

12 1. Is a candidate for employment with a criminal
13 justice agency;

14 2. Is a defendant in a criminal prosecution;

15 3. Concurrently or subsequently petitions for relief
16 under this section or s. 943.059;

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

18 5. Is seeking to be employed or licensed by or to
19 contract with the Department of Children and Family Services
20 or the Department of Juvenile Justice or to be employed or
21 used by such contractor or licensee in a sensitive position
22 having direct contact with children, the developmentally
23 disabled, the aged, or the elderly as provided in s.
24 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
25 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
26 916.106(10) and (13), s. 985.407, or chapter 400; or

27 6. Is seeking to be employed or licensed by the
28 Department of Education, any district school board, any
29 university laboratory school, any charter school, any private
30 or parochial school, or any local governmental entity that
31 licenses child care facilities.

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

8 (c) Information relating to the existence of an
9 expunged criminal history record which is provided in
10 accordance with paragraph (a) is confidential and exempt from
11 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
12 State Constitution, except that the department shall disclose
13 the existence of a criminal history record ordered expunged to
14 the entities set forth in subparagraphs (a)1., 4., 5., and 6.
15 for their respective licensing and employment purposes, and to
16 criminal justice agencies for their respective criminal
17 justice purposes. It is unlawful for any employee of an entity
18 set forth in subparagraph (a)1., subparagraph (a)4.,
19 subparagraph (a)5., or subparagraph (a)6. to disclose
20 information relating to the existence of an expunged criminal
21 history record of a person seeking employment or licensure
22 with such entity or contractor, except to the person to whom
23 the criminal history record relates or to persons having
24 direct responsibility for employment or licensure decisions.
25 Any person who violates this paragraph commits a misdemeanor
26 of the first degree, punishable as provided in s. 775.082 or
27 s. 775.083.

28 (5) STATUTORY REFERENCES.--Any reference to any other
29 chapter, section, or subdivision of the Florida Statutes in
30 this section constitutes a general reference under the
31 doctrine of incorporation by reference.

1 Section 23. For the purpose of incorporating the
2 amendment to section 893.135, Florida Statutes, in a reference
3 thereto, section 943.059, Florida Statutes, is reenacted to
4 read:

5 943.059 Court-ordered sealing of criminal history
6 records.--The courts of this state shall continue to have
7 jurisdiction over their own procedures, including the
8 maintenance, sealing, and correction of judicial records
9 containing criminal history information to the extent such
10 procedures are not inconsistent with the conditions,
11 responsibilities, and duties established by this section. Any
12 court of competent jurisdiction may order a criminal justice
13 agency to seal the criminal history record of a minor or an
14 adult who complies with the requirements of this section. The
15 court shall not order a criminal justice agency to seal a
16 criminal history record until the person seeking to seal a
17 criminal history record has applied for and received a
18 certificate of eligibility for sealing pursuant to subsection
19 (2). A criminal history record that relates to a violation of
20 s. 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03,
21 s. 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839,
22 s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
23 916.1075, or a violation enumerated in s. 907.041 may not be
24 sealed, without regard to whether adjudication was withheld,
25 if the defendant was found guilty of or pled guilty or nolo
26 contendere to the offense, or if the defendant, as a minor,
27 was found to have committed or pled guilty or nolo contendere
28 to committing the offense as a delinquent act. The court may
29 only order sealing of a criminal history record pertaining to
30 one arrest or one incident of alleged criminal activity,
31 except as provided in this section. The court may, at its sole

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

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

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

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

28 1. Has never, prior to the date on which the petition
29 is filed, been adjudicated guilty of a criminal offense or
30 comparable ordinance violation or adjudicated delinquent for
31

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

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

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

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

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

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

30
31

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

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

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

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

16 (e) Has never secured a prior sealing or expunction of
17 a criminal history record under this section, former s.
18 893.14, former s. 901.33, or former s. 943.058.

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

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

23 (a) In judicial proceedings under this section, a copy
24 of the completed petition to seal shall be served upon the
25 appropriate state attorney or the statewide prosecutor and
26 upon the arresting agency; however, it is not necessary to
27 make any agency other than the state a party. The appropriate
28 state attorney or the statewide prosecutor and the arresting
29 agency may respond to the court regarding the completed
30 petition to seal.
31

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

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

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

1 agency of the reason for noncompliance. The appropriate state
2 attorney or statewide prosecutor shall take action within 60
3 days to correct the record and petition the court to void the
4 order. No cause of action, including contempt of court, shall
5 arise against any criminal justice agency for failure to
6 comply with an order to seal when the petitioner for such
7 order failed to obtain the certificate of eligibility as
8 required by this section or when such order does not comply
9 with the requirements of this section.

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

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

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

30 1. Is a candidate for employment with a criminal
31 justice agency;

1 2. Is a defendant in a criminal prosecution;
2 3. Concurrently or subsequently petitions for relief
3 under this section or s. 943.0585;
4 4. Is a candidate for admission to The Florida Bar;
5 5. Is seeking to be employed or licensed by or to
6 contract with the Department of Children and Family Services
7 or the Department of Juvenile Justice or to be employed or
8 used by such contractor or licensee in a sensitive position
9 having direct contact with children, the developmentally
10 disabled, the aged, or the elderly as provided in s.
11 110.1127(3), s. 393.063, s. 394.4572(1), s. 397.451, s.
12 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
13 415.103, s. 916.106(10) and (13), s. 985.407, or chapter 400;
14 or
15 6. Is seeking to be employed or licensed by the
16 Department of Education, any district school board, any
17 university laboratory school, any charter school, any private
18 or parochial school, or any local governmental entity that
19 licenses child care facilities.
20 (b) Subject to the exceptions in paragraph (a), a
21 person who has been granted a sealing under this section,
22 former s. 893.14, former s. 901.33, or former s. 943.058 may
23 not be held under any provision of law of this state to commit
24 perjury or to be otherwise liable for giving a false statement
25 by reason of such person's failure to recite or acknowledge a
26 sealed criminal history record.
27 (c) Information relating to the existence of a sealed
28 criminal record provided in accordance with the provisions of
29 paragraph (a) is confidential and exempt from the provisions
30 of s. 119.07(1) and s. 24(a), Art. I of the State
31 Constitution, except that the department shall disclose the

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

14 (5) STATUTORY REFERENCES.--Any reference to any other
15 chapter, section, or subdivision of the Florida Statutes in
16 this section constitutes a general reference under the
17 doctrine of incorporation by reference.

18 Section 24. For the purpose of incorporating the
19 amendment to section 893.13, Florida Statutes, in references
20 thereto, subsections (1) and (2) of section 948.034, Florida
21 Statutes, are reenacted to read:

22 948.034 Terms and conditions of probation; community
23 residential drug punishment centers.--

24 (1) On or after October 1, 1993, any person who
25 violates s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or
26 (5)(a) may, in the discretion of the trial court, be required
27 to successfully complete a term of probation in lieu of
28 serving a term of imprisonment as required or authorized by s.
29 775.084, former s. 921.001, or s. 921.002, as follows:

30 (a) If the person has not previously been convicted of
31 violating s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or

1 (5)(a), adjudication may be withheld and the offender may be
2 placed on probation for not less than 18 months, as a
3 condition of which the court shall require the offender to
4 reside at a community residential drug punishment center for
5 90 days. The offender must comply with all rules and
6 regulations of the center and must pay a fee for the costs of
7 room and board and residential supervision. Placement of an
8 offender into a community residential drug punishment center
9 is subject to budgetary considerations and availability of bed
10 space. If the court requires the offender to reside at a
11 community residential drug punishment center, the court shall
12 also require the offender to comply with one or more of the
13 other following terms and conditions:

14 1. Pay a fine of not less than \$500 nor more than
15 \$10,000 pursuant to s. 775.083(1)(c).

16 2. Enter, regularly attend, and successfully complete
17 a substance abuse education program of at least 40 hours or a
18 prescribed substance abuse treatment program provided by a
19 treatment resource licensed pursuant to chapter 397 or by a
20 hospital licensed pursuant to chapter 395, as specified by the
21 court. In addition, the court may refer the offender to a
22 licensed agency for substance abuse evaluation and, if
23 appropriate, substance abuse treatment subject to the ability
24 of the offender to pay for such evaluation and treatment. If
25 such referral is made, the offender must comply and must pay
26 for the reasonable cost of the evaluation and treatment.

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

28 4. Submit to routine and random drug testing which may
29 be conducted during the probationary period, with the
30 reasonable costs thereof borne by the offender.
31

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

4 (b) If the person has been previously convicted of one
5 felony violation of s. 893.13(1)(a)1., (1)(c)2., (1)(d)2.,
6 (2)(a)1., or (5)(a), adjudication may not be withheld and the
7 offender may be placed on probation for not less than 24
8 months, as a condition of which the court shall require the
9 offender to reside at a community residential drug punishment
10 center for 180 days. The offender must comply with all rules
11 and regulations of the center and must pay a fee for the costs
12 of room and board and residential supervision. Placement of an
13 offender into a community residential drug punishment center
14 is subject to budgetary considerations and availability of bed
15 space. If the court requires the offender to reside at a
16 community residential drug punishment center, the court shall
17 also require the offender to comply with one or more of the
18 other following terms and conditions:

19 1. Pay a fine of not less than \$1,000 nor more than
20 \$10,000 pursuant to s. 775.083(1)(c).

21 2. Enter, regularly attend, and successfully complete
22 a substance abuse education program of at least 40 hours or a
23 prescribed substance abuse treatment program provided by a
24 treatment resource licensed pursuant to chapter 397 or by a
25 hospital licensed pursuant to chapter 395, as specified by the
26 court. In addition, the court may refer the offender to a
27 licensed agency for substance abuse evaluation and, if
28 appropriate, substance abuse treatment subject to the ability
29 of the offender to pay for such evaluation and treatment. If
30 such referral is made, the offender must comply and must pay
31 for the reasonable cost of the evaluation and treatment.

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

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

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

8 (c) If the person has been previously convicted of two
9 felony violations of s. 893.13(2)(a)1. or (5)(a), adjudication
10 may not be withheld and the offender may be placed on
11 probation for not less than 36 months, as a condition of which
12 the court shall require the offender to reside at a community
13 residential drug punishment center for 360 days. The offender
14 must comply with all rules and regulations of the center and
15 must pay a fee for the costs of room and board and residential
16 supervision. Placement of an offender into a community
17 residential drug punishment center is subject to budgetary
18 considerations and availability of bed space. If the court
19 requires the offender to reside at a community residential
20 drug punishment center, the court shall also require the
21 offender to comply with one or more of the other following
22 terms and conditions:

23 1. Pay a fine of not less than \$1,500 nor more than
24 \$10,000 pursuant to s. 775.083(1)(c).

25 2. Enter, regularly attend, and successfully complete
26 a substance abuse education program of at least 40 hours or a
27 prescribed substance abuse treatment program provided by a
28 treatment resource licensed pursuant to chapter 397 or by a
29 hospital licensed pursuant to chapter 395, as specified by the
30 court. In addition, the court may refer the offender to a
31 licensed agency for substance abuse evaluation and, if

1 appropriate, substance abuse treatment subject to the ability
2 of the offender to pay for such evaluation and treatment. If
3 such referral is made, the offender must comply and must pay
4 for the reasonable cost of the evaluation and treatment.

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

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

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

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

15 (2) On or after October 1, 1993, any person who
16 violates s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a) may,
17 in the discretion of the trial court, be required to
18 successfully complete a term of probation in lieu of serving a
19 term of imprisonment as required or authorized by s. 775.084,
20 former s. 921.001, or s. 921.002, as follows:

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

27 1. Pay a fine of not less than \$250 nor more than
28 \$5,000 pursuant to s. 775.083(1)(c).

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

1 treatment resource licensed pursuant to chapter 397 or by a
2 hospital licensed pursuant to chapter 395, as specified by the
3 court. In addition, the court may refer the offender to a
4 licensed agency for substance abuse evaluation and, if
5 appropriate, substance abuse treatment subject to the ability
6 of the offender to pay for such evaluation and treatment. If
7 such referral is made, the offender must comply and must pay
8 for the reasonable cost of the evaluation and treatment.

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

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

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

16 (b) If the person has been previously convicted of one
17 felony violation of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or
18 (6)(a), adjudication may not be withheld and the offender may
19 be placed on probation for not less than 18 months, as a
20 condition of which the court shall require the offender to
21 reside at a community residential drug punishment center for
22 90 days. The offender must comply with all rules and
23 regulations of the center and must pay a fee for the costs of
24 room and board and residential supervision. Placement of an
25 offender into a community residential drug punishment center
26 is subject to budgetary considerations and availability of bed
27 space. If the court requires the offender to reside at a
28 community residential drug punishment center, the court shall
29 also require the offender to comply with one or more of the
30 other following terms and conditions:
31

1 1. Pay a fine of not less than \$500 nor more than
2 \$5,000 pursuant to s. 775.083(1)(c).

3 2. Enter, regularly attend, and successfully complete
4 a substance abuse intervention program of a least 80 hours
5 provided by a treatment resource licensed pursuant to chapter
6 397 or by a hospital licensed pursuant to chapter 395, as
7 specified by the court. In addition, the court may refer the
8 offender to a licensed agency for substance abuse evaluation
9 and, if appropriate, substance abuse treatment subject to the
10 ability of the offender to pay for such evaluation and
11 treatment. If such referral is made, the offender must comply
12 and must pay for the reasonable cost of the evaluation and
13 treatment.

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

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

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

21 (c) If the person has been previously convicted of two
22 felony violations of s. 893.13(2)(a)2., (5)(b), or (6)(a),
23 adjudication may not be withheld and the offender may be
24 placed on probation for not less than 24 months, as a
25 condition of which the court shall require the offender to
26 reside at a community residential drug punishment center for
27 120 days. The offender must comply with all rules and
28 regulations of the center and must pay a fee for the costs of
29 room and board and residential supervision. Placement of an
30 offender into a community residential drug punishment center
31 is subject to budgetary considerations and availability of bed

1 space. If the court requires the offender to reside at a
2 community residential drug punishment center, the court shall
3 also require the offender to comply with one or more of the
4 other following terms and conditions:

5 1. Pay a fine of not less than \$1,000 nor more than
6 \$5,000 pursuant to s. 775.083(1)(c).

7 2. Enter, regularly attend, and successfully complete
8 a prescribed substance abuse treatment program provided by a
9 treatment resource licensed pursuant to chapter 397 or by a
10 hospital licensed pursuant to chapter 395, as specified by the
11 court. In addition, the court may refer the offender to a
12 licensed agency for substance abuse evaluation and, if
13 appropriate, substance abuse treatment subject to the ability
14 of the offender to pay for such evaluation and treatment. If
15 such referral is made, the offender must comply and must pay
16 for the reasonable cost of the evaluation and treatment.

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

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

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

24 (d) If the person has been previously convicted of
25 three felony violations of s. 893.13(2)(a)2., (5)(b), or
26 (6)(a), adjudication may not be withheld and the offender may
27 be placed on probation for not less than 30 months, as a
28 condition of which the court shall require the offender to
29 reside at a community residential drug punishment center for
30 200 days. The offender must comply with all rules and
31 regulations of the center and must pay a fee for the costs of

1 room and board and residential supervision. Placement of an
2 offender into a community residential drug punishment center
3 is subject to budgetary considerations and availability of bed
4 space. If the court requires the offender to reside at a
5 community residential drug punishment center, the court shall
6 also require the offender to comply with one or more of the
7 other following terms and conditions:

8 1. Pay a fine of not less than \$1,500 nor more than
9 \$5,000 pursuant to s. 775.083(1)(c).

10 2. Enter, regularly attend, and successfully complete
11 a prescribed substance abuse treatment program provided by a
12 treatment resource licensed pursuant to chapter 397 or by a
13 hospital licensed pursuant to chapter 395, as specified by the
14 court. In addition, the court may refer the offender to a
15 licensed agency for substance abuse evaluation and, if
16 appropriate, substance abuse treatment subject to the ability
17 of the offender to pay for such evaluation and treatment. If
18 such referral is made, the offender must comply and must pay
19 for the reasonable cost of the evaluation and treatment.

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

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

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

27 (e) If the person has been previously convicted of
28 four felony violations of s. 893.13(2)(a)2., (5)(b), or
29 (6)(a), adjudication may not be withheld and the offender may
30 be placed on probation for not less than 36 months, as a
31 condition of which the court shall require the offender to

1 | reside at a community residential drug punishment center for
2 | 360 days. The offender must comply with all rules and
3 | regulations of the center and must pay a fee for the costs of
4 | room and board and residential supervision. Placement of an
5 | offender into a community residential drug punishment center
6 | is subject to budgetary considerations and availability of bed
7 | space. If the court requires the offender to reside at a
8 | community residential drug punishment center, the court shall
9 | also require the offender to comply with one or more of the
10 | other following terms and conditions:

11 | 1. Pay a fine of not less than \$2,000 nor more than
12 | \$5,000 pursuant to s. 775.083(1)(c).

13 | 2. Enter, regularly attend, and successfully complete
14 | a prescribed substance abuse treatment program provided by a
15 | treatment resource licensed pursuant to chapter 397 or by a
16 | hospital licensed pursuant to chapter 395, as specified by the
17 | court. In addition, the court may refer the offender to a
18 | licensed agency for substance abuse evaluation and, if
19 | appropriate, substance abuse treatment subject to the ability
20 | of the offender to pay for such evaluation and treatment. If
21 | such referral is made, the offender must comply and must pay
22 | for the reasonable cost of the evaluation and treatment.

23 | 3. Perform at least 250 hours of public service.

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

27 | 5. Participate, at his or her own expense, in an
28 | appropriate self-help group, such as Narcotics Anonymous,
29 | Alcoholics Anonymous, or Cocaine Anonymous, if available.
30 |
31 |

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

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

6

7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 Senate Bill 2352

9

10 Modifies requirements relating to over-the-counter sale and
11 display of certain products containing ephedrine,
12 pseudoephedrine, or phenylpropanolamine as the sole active
13 ingredient by specifying that the requirements apply to retail
14 over-the-counter sale and display; requiring the general owner
15 or operator of an outlet selling such drug to have an
16 employee-training program to provide employees with
17 information on the products; providing that the requirements
18 supersede any local ordinance or regulation; and modifying
19 criminal offenses to provide for a scienter element and for
20 graduated criminal penalties.

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