

1                                   A bill to be entitled  
 2       An act relating to controlled substances; amending s.  
 3       39.301, F.S.; requiring the Department of Children and  
 4       Family Services to file a petition for dependency for the  
 5       children of parents involved in certain controlled  
 6       substance crimes; amending s. 893.02, F.S.; defining the  
 7       term "clandestine laboratory"; amending s. 893.13, F.S.;  
 8       revising provisions relating to criminal penalties for  
 9       controlled substance violations that result in serious  
 10      injury to specified individuals; creating s. 627.4107,  
 11      F.S.; prohibiting refusal to insure or cancellation of  
 12      life or health insurance policies or certificates of  
 13      specified local, state, or federal employees due to  
 14      exposure to toxic chemicals or due to disease or injury  
 15      incurred in their duties related to controlled substance  
 16      law violations committed by others; providing penalties;  
 17      amending s. 907.041, F.S.; revising a definition; revising  
 18      provisions relating to pretrial release of certain  
 19      defendants charged with certain controlled substance  
 20      offenses; amending ss. 465.016, 465.023, 856.015, 893.135,  
 21      944.47, 951.22, and 985.4046, F.S.; conforming cross-  
 22      references; providing an effective date.

23  
 24   Be It Enacted by the Legislature of the State of Florida:

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 26           Section 1. Paragraph (b) of subsection (8) of section  
 27   39.301, Florida Statutes, is amended to read:  
 28           39.301   Initiation of protective investigations.--

29           (8) The person responsible for the investigation shall  
30 make a preliminary determination as to whether the report is  
31 complete, consulting with the attorney for the department when  
32 necessary. In any case in which the person responsible for the  
33 investigation finds that the report is incomplete, he or she  
34 shall return it without delay to the person or agency  
35 originating the report or having knowledge of the facts, or to  
36 the appropriate law enforcement agency having investigative  
37 jurisdiction, and request additional information in order to  
38 complete the report; however, the confidentiality of any report  
39 filed in accordance with this chapter shall not be violated.

40           (b) If it is determined that the child is in need of the  
41 protection and supervision of the court, the department shall  
42 file a petition for dependency. A petition for dependency shall  
43 be filed in all cases classified by the department as high-risk.  
44 Factors that the department may consider in determining whether  
45 a case is high-risk include, but are not limited to, the young  
46 age of the parents or legal custodians, the use of illegal  
47 drugs, the arrest of the parents or legal custodians on charges  
48 of manufacturing, processing, cooking, disposing of, or storing,  
49 either temporarily or permanently, any substances in violation  
50 of chapter 893, or domestic violence.

51           Section 2. Subsections (4) through (21) of section 893.02,  
52 Florida Statutes, are renumbered as subsections (5) through  
53 (22), respectively, and a new subsection (4) is added to that  
54 section to read:

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55           893.02 Definitions.--The following words and phrases as  
56 used in this chapter shall have the following meanings, unless  
57 the context otherwise requires:

58           (4) "Clandestine laboratory" means any location and  
59 proximate areas set aside or used that are likely to be  
60 contaminated as a result of manufacturing, processing, cooking,  
61 disposing of, or storing, either temporarily or permanently, any  
62 substances in violation of this chapter, except as such  
63 activities are authorized in chapter 499.

64           Section 3. Subsection (12) of section 893.13, Florida  
65 Statutes, is amended to read:

66           893.13 Prohibited acts; penalties.--

67           (12) If a person violates any provision of this chapter  
68 and the violation results in a serious injury to a state or  
69 local law enforcement officer as defined in s. 943.10,  
70 firefighter as defined in s. 633.30, emergency medical  
71 technician as defined in s. 401.23, paramedic as defined in s.  
72 401.23, employee of a public utility or an electric utility as  
73 defined in s. 366.02, animal control officer as defined in s.  
74 828.27, volunteer firefighter engaged by state or local  
75 government, law enforcement officer employed by the Federal  
76 Government, or any other local, state, or Federal Government  
77 employee injured during the course and scope of his or her  
78 employment ~~state, local, or federal law enforcement officer,~~ the  
79 person commits a felony of the third degree, punishable as  
80 provided in s. 775.082, s. 775.083, or s. 775.084. If the injury  
81 sustained results in death or great bodily harm, the person

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82 commits a felony of the second degree, punishable as provided in  
83 s. 775.082, s. 775.083, or s. 775.084.

84 Section 4. Section 627.4107, Florida Statutes, is created  
85 to read:

86 627.4107 Government employees exposed to toxic drug  
87 chemicals; refusal to insure and cancellation of life or health  
88 policy or certificate prohibited.--No life or health insurer may  
89 cancel or nonrenew a life or health insurance policy or  
90 certificate of insurance providing coverage to, or refuse to  
91 insure, a state or local law enforcement officer as defined in  
92 s. 943.10, firefighter as defined in s. 633.30, emergency  
93 medical technician as defined in s. 401.23, or paramedic as  
94 defined in s. 401.23, a volunteer firefighter engaged by state  
95 or local government, a law enforcement officer employed by the  
96 Federal Government, or any other local, state, or Federal  
97 Government employee solely based on the fact that the individual  
98 has been exposed to toxic chemicals or suffered injury or  
99 disease as a result of the individual's lawful duties arising  
100 out of the commission of a violation of chapter 893 by another  
101 person. This section does not apply to any person who commits an  
102 offense under chapter 893.

103 Section 5. Paragraph (a) of subsection (4) of section  
104 907.041, Florida Statutes, is amended, and paragraph (1) is  
105 added to that subsection, to read:

106 907.041 Pretrial detention and release.--

107 (4) PRETRIAL DETENTION.--

108 (a) As used in this subsection, "dangerous crime" means  
109 any of the following:

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- 110 1. Arson;
- 111 2. Aggravated assault;
- 112 3. Aggravated battery;
- 113 4. Illegal use of explosives;
- 114 5. Child abuse or aggravated child abuse;
- 115 6. Abuse of an elderly person or disabled adult, or
- 116 aggravated abuse of an elderly person or disabled adult;
- 117 7. Aircraft piracy;
- 118 8. Kidnapping;
- 119 9. Homicide;
- 120 10. Manslaughter;
- 121 11. Sexual battery;
- 122 12. Robbery;
- 123 13. Carjacking;
- 124 14. Lewd, lascivious, or indecent assault or act upon or
- 125 in presence of a child under the age of 16 years;
- 126 15. Sexual activity with a child, who is 12 years of age
- 127 or older but less than 18 years of age, by or at solicitation of
- 128 person in familial or custodial authority;
- 129 16. Burglary of a dwelling;
- 130 17. Stalking and aggravated stalking;
- 131 18. Act of domestic violence as defined in s. 741.28;
- 132 19. Home invasion robbery;
- 133 20. Act of terrorism as defined in s. 775.30; ~~and~~
- 134 21. Manufacturing or cooking any substances in violation
- 135 of chapter 893; and
- 136 22.21- Attempting or conspiring to commit any such crime.

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137       (1) The Legislature finds that a person who manufactures  
138 or cooks any substances in violation of chapter 893 poses a  
139 threat of harm to the community and that the factual  
140 circumstances of such a crime indicate a disregard for the  
141 safety of the community. If the court finds that there is a  
142 substantial probability that a defendant charged with  
143 manufacturing or cooking any substances in violation of chapter  
144 893 committed such a crime, there are no conditions of release  
145 reasonably sufficient to protect the community from the risk of  
146 physical harm to persons and therefore the court shall order  
147 pretrial detention.

148       Section 6. Paragraph (s) of subsection (1) of section  
149 465.016, Florida Statutes, is amended to read:

150       465.016 Disciplinary actions.--

151       (1) The following acts constitute grounds for denial of a  
152 license or disciplinary action, as specified in s. 456.072(2):

153       (s) Dispensing any medicinal drug based upon a  
154 communication that purports to be a prescription as defined by  
155 s. 465.003(14) or s. 893.02~~(20)~~ when the pharmacist knows or has  
156 reason to believe that the purported prescription is not based  
157 upon a valid practitioner-patient relationship.

158       Section 7. Paragraph (e) of subsection (1) of section  
159 465.023, Florida Statutes, is amended to read:

160       465.023 Pharmacy permittee; disciplinary action.--

161       (1) The department or the board may revoke or suspend the  
162 permit of any pharmacy permittee, and may fine, place on  
163 probation, or otherwise discipline any pharmacy permittee who  
164 has:

165 (e) Dispensed any medicinal drug based upon a  
 166 communication that purports to be a prescription as defined by  
 167 s. 465.003(14) or s. 893.02~~(20)~~ when the pharmacist knows or has  
 168 reason to believe that the purported prescription is not based  
 169 upon a valid practitioner-patient relationship that includes a  
 170 documented patient evaluation, including history and a physical  
 171 examination adequate to establish the diagnosis for which any  
 172 drug is prescribed and any other requirement established by  
 173 board rule under chapter 458, chapter 459, chapter 461, chapter  
 174 463, chapter 464, or chapter 466.

175 Section 8. Paragraph (c) of subsection (1) of section  
 176 856.015, Florida Statutes, is amended to read:

177 856.015 Open house parties.--

178 (1) Definitions.--As used in this section:

179 (c) "Drug" means a controlled substance, as that term is  
 180 defined in ss. 893.02~~(4)~~ and 893.03.

181 Section 9. Subsection (6) of section 893.135, Florida  
 182 Statutes, is amended to read:

183 893.135 Trafficking; mandatory sentences; suspension or  
 184 reduction of sentences; conspiracy to engage in trafficking.--

185 (6) A mixture, as defined in s. 893.02~~(14)~~, containing any  
 186 controlled substance described in this section includes, but is  
 187 not limited to, a solution or a dosage unit, including but not  
 188 limited to, a pill or tablet, containing a controlled substance.  
 189 For the purpose of clarifying legislative intent regarding the  
 190 weighing of a mixture containing a controlled substance  
 191 described in this section, the weight of the controlled  
 192 substance is the total weight of the mixture, including the

193 controlled substance and any other substance in the mixture. If  
 194 there is more than one mixture containing the same controlled  
 195 substance, the weight of the controlled substance is calculated  
 196 by aggregating the total weight of each mixture.

197 Section 10. Paragraph (a) of subsection (1) of section  
 198 944.47, Florida Statutes, is amended to read:

199 944.47 Introduction, removal, or possession of certain  
 200 articles unlawful; penalty.--

201 (1)(a) Except through regular channels as authorized by  
 202 the officer in charge of the correctional institution, it is  
 203 unlawful to introduce into or upon the grounds of any state  
 204 correctional institution, or to take or attempt to take or send  
 205 or attempt to send therefrom, any of the following articles  
 206 which are hereby declared to be contraband for the purposes of  
 207 this section, to wit:

208 1. Any written or recorded communication or any currency  
 209 or coin given or transmitted, or intended to be given or  
 210 transmitted, to any inmate of any state correctional  
 211 institution.

212 2. Any article of food or clothing given or transmitted,  
 213 or intended to be given or transmitted, to any inmate of any  
 214 state correctional institution.

215 3. Any intoxicating beverage or beverage which causes or  
 216 may cause an intoxicating effect.

217 4. Any controlled substance as defined in s. 893.02~~(4)~~ or  
 218 any prescription or nonprescription drug having a hypnotic,  
 219 stimulating, or depressing effect.



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220           5. Any firearm or weapon of any kind or any explosive  
221 substance.

222           Section 11. Subsection (1) of section 951.22, Florida  
223 Statutes, is amended to read:

224           951.22 County detention facilities; contraband articles.--

225           (1) It is unlawful, except through regular channels as  
226 duly authorized by the sheriff or officer in charge, to  
227 introduce into or possess upon the grounds of any county  
228 detention facility as defined in s. 951.23 or to give to or  
229 receive from any inmate of any such facility wherever said  
230 inmate is located at the time or to take or to attempt to take  
231 or send therefrom any of the following articles which are hereby  
232 declared to be contraband for the purposes of this act, to wit:  
233 Any written or recorded communication; any currency or coin; any  
234 article of food or clothing; any tobacco products as defined in  
235 s. 210.25(11); any cigarette as defined in s. 210.01(1); any  
236 cigar; any intoxicating beverage or beverage which causes or may  
237 cause an intoxicating effect; any narcotic, hypnotic, or  
238 excitative drug or drug of any kind or nature, including nasal  
239 inhalators, sleeping pills, barbiturates, and controlled  
240 substances as defined in s. 893.02~~(4)~~; any firearm or any  
241 instrumentality customarily used or which is intended to be used  
242 as a dangerous weapon; and any instrumentality of any nature  
243 that may be or is intended to be used as an aid in effecting or  
244 attempting to effect an escape from a county facility.

245           Section 12. Paragraph (a) of subsection (1) of section  
246 985.4046, Florida Statutes, is amended to read:

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247 985.4046 Introduction, removal, or possession of certain  
248 articles unlawful; penalty.--

249 (1) (a) Except as authorized through program policy or  
250 operating procedure or as authorized by the facility  
251 superintendent, program director, or manager, a person may not  
252 introduce into or upon the grounds of a juvenile detention  
253 facility or commitment program, or take or send, or attempt to  
254 take or send, from a juvenile detention facility or commitment  
255 program, any of the following articles, which are declared to be  
256 contraband under this section:

257 1. Any unauthorized article of food or clothing.

258 2. Any intoxicating beverage or any beverage that causes  
259 or may cause an intoxicating effect.

260 3. Any controlled substance, as defined in s. 893.02~~(4)~~,  
261 or any prescription or nonprescription drug that has a hypnotic,  
262 stimulating, or depressing effect.

263 4. Any firearm or weapon of any kind or any explosive  
264 substance.

265 Section 13. This act shall take effect July 1, 2006.