

Bill No. SB 2356

Barcode 140974

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Baker) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (b) of subsection (8) of section 39.301, Florida Statutes, is amended to read:

39.301 Initiation of protective investigations.--

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

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1 | violated.

2 | (b) If it is determined that the child is in need of

3 | the protection and supervision of the court, the department

4 | shall file a petition for dependency. A petition for

5 | dependency shall be filed in all cases classified by the

6 | department as high-risk. Factors that the department may

7 | consider in determining whether a case is high-risk include,

8 | but are not limited to, the young age of the parents or legal

9 | custodians, the use of illegal drugs, the arrest of the

10 | parents or legal custodians on charges of manufacturing,

11 | processing, disposing of, or storing, either temporarily or

12 | permanently, any substances in violation of chapter 893, or

13 | domestic violence.

14 | Section 2. Subsection (12) of section 893.13, Florida

15 | Statutes, is amended to read:

16 | 893.13 Prohibited acts; penalties.--

17 | (12) If a person violates any provision of this

18 | chapter and the violation results in a serious injury to a

19 | state or local law enforcement officer as defined in s.

20 | 943.10, firefighter as defined in s. 633.30, emergency medical

21 | technician as defined in s. 401.23, paramedic as defined in s.

22 | 401.23, employee of a public utility or an electric utility as

23 | defined in s. 366.02, animal control officer as defined in s.

24 | 828.27, volunteer firefighter engaged by state or local

25 | government, law enforcement officer employed by the Federal

26 | Government, or any other local, state, or Federal Government

27 | employee injured during the course and scope of his or her

28 | employment ~~state, local, or federal law enforcement officer,~~

29 | the person commits a felony of the third degree, punishable as

30 | provided in s. 775.082, s. 775.083, or s. 775.084. If the

31 | injury sustained results in death or great bodily harm, the

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1 person commits a felony of the second degree, punishable as
2 provided in s. 775.082, s. 775.083, or s. 775.084.

3 Section 3. Section 627.4107, Florida Statutes, is
4 created to read:

5 627.4107 Government employees exposed to toxic drug
6 chemicals; cancellation of life or health policy or
7 certificate prohibited.--No life or health insurer may cancel
8 or nonrenew a life or health insurance policy or certificate
9 of insurance providing coverage to a state or local law
10 enforcement officer as defined in s. 943.10, firefighter as
11 defined in s. 633.30, emergency medical technician as defined
12 in s. 401.23, or paramedic as defined in s. 401.23, a
13 volunteer firefighter engaged by state or local government, a
14 law enforcement officer employed by the Federal Government, or
15 any other local, state, or Federal Government employee solely
16 based on the fact that the individual has been exposed to
17 toxic chemicals or suffered injury or disease as a result of
18 the individual's lawful duties arising out of the commission
19 of a violation of chapter 893 by another person. This section
20 does not apply to any person who commits an offense under
21 chapter 893. This section does not prohibit an insurer from
22 canceling or nonrenewing an insurance policy, as permitted
23 under the Florida Insurance Code, based on an act or practice
24 of the policyholder which constitutes fraud or intentional
25 misrepresentation of material fact by the policyholder.

26 Section 4. Paragraph (a) of subsection (4) of section
27 907.041, Florida Statutes, is amended, and paragraph (1) is
28 added to that subsection, to read:

29 907.041 Pretrial detention and release.--

30 (4) PRETRIAL DETENTION.--

31 (a) As used in this subsection, "dangerous crime"

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1 means any of the following:

- 2 1. Arson;
- 3 2. Aggravated assault;
- 4 3. Aggravated battery;
- 5 4. Illegal use of explosives;
- 6 5. Child abuse or aggravated child abuse;
- 7 6. Abuse of an elderly person or disabled adult, or
- 8 aggravated abuse of an elderly person or disabled adult;
- 9 7. Aircraft piracy;
- 10 8. Kidnapping;
- 11 9. Homicide;
- 12 10. Manslaughter;
- 13 11. Sexual battery;
- 14 12. Robbery;
- 15 13. Carjacking;
- 16 14. Lewd, lascivious, or indecent assault or act upon
- 17 or in presence of a child under the age of 16 years;
- 18 15. Sexual activity with a child, who is 12 years of
- 19 age or older but less than 18 years of age, by or at
- 20 solicitation of person in familial or custodial authority;
- 21 16. Burglary of a dwelling;
- 22 17. Stalking and aggravated stalking;
- 23 18. Act of domestic violence as defined in s. 741.28;
- 24 19. Home invasion robbery;
- 25 20. Act of terrorism as defined in s. 775.30; ~~and~~
- 26 21. Manufacturing any substances in violation of
- 27 chapter 893; and
- 28 ~~22.21.~~ Attempting or conspiring to commit any such
- 29 crime.

30 (1) The Legislature finds that a person who
 31 manufactures any substances in violation of chapter 893 poses

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1 a threat of harm to the community and that the factual
 2 circumstances of such a crime indicate a disregard for the
 3 safety of the community. The court shall order pretrial
 4 detention if the court finds that there is a substantial
 5 probability that a defendant charged with manufacturing any
 6 substances in violation of chapter 893 committed such a crime,
 7 and if the court finds that there are no conditions of release
 8 reasonably sufficient to protect the community from the risk
 9 of physical harm to persons.

10 Section 5. Paragraph (s) of subsection (1) of section
 11 465.016, Florida Statutes, is amended to read:

12 465.016 Disciplinary actions.--

13 (1) The following acts constitute grounds for denial
 14 of a license or disciplinary action, as specified in s.

15 456.072(2):

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

21 Section 6. Paragraph (e) of subsection (1) of section
 22 465.023, Florida Statutes, is amended to read:

23 465.023 Pharmacy permittee; disciplinary action.--

24 (1) The department or the board may revoke or suspend
 25 the permit of any pharmacy permittee, and may fine, place on
 26 probation, or otherwise discipline any pharmacy permittee who
 27 has:

28 (e) Dispensed any medicinal drug based upon a
 29 communication that purports to be a prescription as defined by
 30 s. 465.003(14) or s. 893.02~~(20)~~ when the pharmacist knows or
 31 has reason to believe that the purported prescription is not

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1 based upon a valid practitioner-patient relationship that
 2 includes a documented patient evaluation, including history
 3 and a physical examination adequate to establish the diagnosis
 4 for which any drug is prescribed and any other requirement
 5 established by board rule under chapter 458, chapter 459,
 6 chapter 461, chapter 463, chapter 464, or chapter 466.

7 Section 7. Paragraph (c) of subsection (1) of section
 8 856.015, Florida Statutes, is amended to read:

9 856.015 Open house parties.--

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

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

13 Section 8. Subsection (6) of section 893.135, Florida
 14 Statutes, is amended to read:

15 893.135 Trafficking; mandatory sentences; suspension
 16 or reduction of sentences; conspiracy to engage in
 17 trafficking.--

18 (6) A mixture, as defined in s. 893.02~~(14)~~, containing
 19 any controlled substance described in this section includes,
 20 but is not limited to, a solution or a dosage unit, including
 21 but not limited to, a pill or tablet, containing a controlled
 22 substance. For the purpose of clarifying legislative intent
 23 regarding the weighing of a mixture containing a controlled
 24 substance described in this section, the weight of the
 25 controlled substance is the total weight of the mixture,
 26 including the controlled substance and any other substance in
 27 the mixture. If there is more than one mixture containing the
 28 same controlled substance, the weight of the controlled
 29 substance is calculated by aggregating the total weight of
 30 each mixture.

31 Section 9. Paragraph (a) of subsection (1) of section

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1 944.47, Florida Statutes, is amended to read:

2 944.47 Introduction, removal, or possession of certain
3 articles unlawful; penalty.--

4 (1)(a) Except through regular channels as authorized
5 by the officer in charge of the correctional institution, it
6 is unlawful to introduce into or upon the grounds of any state
7 correctional institution, or to take or attempt to take or
8 send or attempt to send therefrom, any of the following
9 articles which are hereby declared to be contraband for the
10 purposes of this section, to wit:

11 1. Any written or recorded communication or any
12 currency or coin given or transmitted, or intended to be given
13 or transmitted, to any inmate of any state correctional
14 institution.

15 2. Any article of food or clothing given or
16 transmitted, or intended to be given or transmitted, to any
17 inmate of any state correctional institution.

18 3. Any intoxicating beverage or beverage which causes
19 or may cause an intoxicating effect.

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

23 5. Any firearm or weapon of any kind or any explosive
24 substance.

25 Section 10. Subsection (1) of section 951.22, Florida
26 Statutes, is amended to read:

27 951.22 County detention facilities; contraband
28 articles.--

29 (1) It is unlawful, except through regular channels as
30 duly authorized by the sheriff or officer in charge, to
31 introduce into or possess upon the grounds of any county

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1 detention facility as defined in s. 951.23 or to give to or
 2 receive from any inmate of any such facility wherever said
 3 inmate is located at the time or to take or to attempt to take
 4 or send therefrom any of the following articles which are
 5 hereby declared to be contraband for the purposes of this act,
 6 to wit: Any written or recorded communication; any currency or
 7 coin; any article of food or clothing; any tobacco products as
 8 defined in s. 210.25(11); any cigarette as defined in s.
 9 210.01(1); any cigar; any intoxicating beverage or beverage
 10 which causes or may cause an intoxicating effect; any
 11 narcotic, hypnotic, or excitative drug or drug of any kind or
 12 nature, including nasal inhalators, sleeping pills,
 13 barbiturates, and controlled substances as defined in s.
 14 893.02(4); any firearm or any instrumentality customarily used
 15 or which is intended to be used as a dangerous weapon; and any
 16 instrumentality of any nature that may be or is intended to be
 17 used as an aid in effecting or attempting to effect an escape
 18 from a county facility.

19 Section 11. Paragraph (a) of subsection (1) of section
 20 985.4046, Florida Statutes, is amended to read:

21 985.4046 Introduction, removal, or possession of
 22 certain articles unlawful; penalty.--

23 (1)(a) Except as authorized through program policy or
 24 operating procedure or as authorized by the facility
 25 superintendent, program director, or manager, a person may not
 26 introduce into or upon the grounds of a juvenile detention
 27 facility or commitment program, or take or send, or attempt to
 28 take or send, from a juvenile detention facility or commitment
 29 program, any of the following articles, which are declared to
 30 be contraband under this section:

- 31 1. Any unauthorized article of food or clothing.

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

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

6 4. Any firearm or weapon of any kind or any explosive
7 substance.

8 Section 12. This act shall take effect July 1, 2006.

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11 ===== T I T L E A M E N D M E N T =====

12 And the title is amended as follows:

13 Delete everything before the enacting clause

14

15 and insert:

16 A bill to be entitled
17 An act relating to controlled substances;
18 amending s. 39.301, F.S.; requiring the
19 Department of Children and Family Services to
20 file a petition for dependency for the children
21 of parents involved in certain controlled
22 substance crimes; amending s. 893.13, F.S.;
23 revising provisions relating to criminal
24 penalties for controlled substance violations
25 that result in serious injury to specified
26 individuals; creating s. 627.4107, F.S.;
27 prohibiting cancellation of life or health
28 insurance policies or certificates of specified
29 local, state, or federal employees due to
30 exposure to toxic chemicals or due to disease
31 or injury incurred in their duties related to

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1 controlled substance law violations committed
2 by others; clarifying that cancellation or
3 nonrenewal otherwise authorized under the
4 Florida Insurance Code for circumstances
5 involving fraud or intentional
6 misrepresentation is not prohibited; providing
7 penalties; amending s. 907.041, F.S.; revising
8 a definition; revising provisions relating to
9 pretrial release of certain defendants charged
10 with certain controlled substance offenses;
11 amending ss. 465.016, 465.023, 856.015,
12 893.135, 944.47, 951.22, and 985.4046, F.S.;
13 conforming cross-references; providing an
14 effective date.

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