

1 A bill to be entitled
 2 An act relating to murder; amending s. 782.04, F.S.;
 3 providing that murder in the first degree includes the
 4 unlawful killing of a human being which resulted from the
 5 unlawful distribution of methadone by a person aged 18 or
 6 older when such drug is proven to be the proximate cause
 7 of the death of the user; providing penalties; reenacting
 8 ss. 775.0823(1) and (2), 782.065(1), 921.0022(3)(i), and
 9 947.146(3)(i), F.S., relating to violent offenses
 10 committed against law enforcement officers, correctional
 11 officers, state attorneys, assistant state attorneys,
 12 justices, or judges, murder of law enforcement officer,
 13 the Criminal Punishment Code offense severity ranking
 14 chart, and the Control Release Authority, respectively, to
 15 incorporate the amendment to s. 782.04, F.S., in
 16 references thereto; providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Paragraph (a) of subsection (1) of section
 21 782.04, Florida Statutes, is amended to read:

22 782.04 Murder.—

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

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

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

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

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- 29 | b. Arson,
- 30 | c. Sexual battery,
- 31 | d. Robbery,
- 32 | e. Burglary,
- 33 | f. Kidnapping,
- 34 | g. Escape,
- 35 | h. Aggravated child abuse,
- 36 | i. Aggravated abuse of an elderly person or disabled
- 37 | adult,
- 38 | j. Aircraft piracy,
- 39 | k. Unlawful throwing, placing, or discharging of a
- 40 | destructive device or bomb,
- 41 | l. Carjacking,
- 42 | m. Home-invasion robbery,
- 43 | n. Aggravated stalking,
- 44 | o. Murder of another human being,
- 45 | p. Resisting an officer with violence to his or her
- 46 | person,
- 47 | q. Felony that is an act of terrorism or is in furtherance
- 48 | of an act of terrorism; or
- 49 | 3. Which resulted from the unlawful distribution of any
- 50 | substance controlled under s. 893.03(1), cocaine as described in
- 51 | s. 893.03(2)(a)4., ~~or~~ opium or any synthetic or natural salt,
- 52 | compound, derivative, or preparation of opium, or methadone by a
- 53 | person 18 years of age or older, when such drug is proven to be
- 54 | the proximate cause of the death of the user,
- 55 |

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56 is murder in the first degree and constitutes a capital felony,
57 punishable as provided in s. 775.082.

58 Section 2. For the purpose of incorporating the amendment
59 made by this act to section 782.04, Florida Statutes, in
60 references thereto, subsections (1) and (2) of section 775.0823,
61 Florida Statutes, are reenacted to read:

62 775.0823 Violent offenses committed against law
63 enforcement officers, correctional officers, state attorneys,
64 assistant state attorneys, justices, or judges.—The Legislature
65 does hereby provide for an increase and certainty of penalty for
66 any person convicted of a violent offense against any law
67 enforcement or correctional officer, as defined in s. 943.10(1),
68 (2), (3), (6), (7), (8), or (9); against any state attorney
69 elected pursuant to s. 27.01 or assistant state attorney
70 appointed under s. 27.181; or against any justice or judge of a
71 court described in Art. V of the State Constitution, which
72 offense arises out of or in the scope of the officer's duty as a
73 law enforcement or correctional officer, the state attorney's or
74 assistant state attorney's duty as a prosecutor or investigator,
75 or the justice's or judge's duty as a judicial officer, as
76 follows:

77 (1) For murder in the first degree as described in s.
78 782.04(1), if the death sentence is not imposed, a sentence of
79 imprisonment for life without eligibility for release.

80 (2) For attempted murder in the first degree as described
81 in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083,
82 or s. 775.084.

83

84 Notwithstanding the provisions of s. 948.01, with respect to any
 85 person who is found to have violated this section, adjudication
 86 of guilt or imposition of sentence shall not be suspended,
 87 deferred, or withheld.

88 Section 3. For the purpose of incorporating the amendment
 89 made by this act to section 782.04, Florida Statutes, in a
 90 reference thereto, subsection (1) of section 782.065, Florida
 91 Statutes, is reenacted to read:

92 782.065 Murder; law enforcement officer.—Notwithstanding
 93 ss. 775.082, 775.0823, 782.04, 782.051, and chapter 921, a
 94 defendant shall be sentenced to life imprisonment without
 95 eligibility for release upon findings by the trier of fact that,
 96 beyond a reasonable doubt:

97 (1) The defendant committed murder in the first degree in
 98 violation of s. 782.04(1) and a death sentence was not imposed;
 99 murder in the second or third degree in violation of s.
 100 782.04(2), (3), or (4); attempted murder in the first or second
 101 degree in violation of s. 782.04(1)(a)1. or (2); or attempted
 102 felony murder in violation of s. 782.051; and

103 Section 4. For the purpose of incorporating the amendment
 104 made by this act to section 782.04, Florida Statutes, in a
 105 reference thereto, paragraph (i) of subsection (3) of section
 106 921.0022, Florida Statutes, is reenacted to read:

107 921.0022 Criminal Punishment Code; offense severity
 108 ranking chart.—

109 (3) OFFENSE SEVERITY RANKING CHART

110 (i) LEVEL 9

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112	Florida Statute	Felony Degree	Description
113	316.193 (3) (c) 3.b.	1st	DUI manslaughter; failing to render aid or give information.
114	327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
115	409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
116	499.0051 (9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
117	560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
118	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
	655.50 (10) (b) 3.	1st	Failure to report financial transactions totaling or exceeding

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\$100,000 by financial institution.

119

775.0844 1st Aggravated white collar crime.

120

782.04(1) 1st Attempt, conspire, or solicit to
commit premeditated murder.

121

782.04(3) 1st,PBL Accomplice to murder in connection
with arson, sexual battery, robbery,
burglary, and other specified
felonies.

122

782.051(1) 1st Attempted felony murder while
perpetrating or attempting to
perpetrate a felony enumerated in s.
782.04(3).

123

782.07(2) 1st Aggravated manslaughter of an elderly
person or disabled adult.

124

787.01(1)(a)1. 1st,PBL Kidnapping; hold for ransom or reward
or as a shield or hostage.

125

787.01(1)(a)2. 1st,PBL Kidnapping with intent to commit or
facilitate commission of any felony.

126

787.01(1)(a)4. 1st,PBL Kidnapping with intent to interfere

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with performance of any governmental or political function.

127

787.02 (3) (a) 1st False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.

128

790.161 1st Attempted capital destructive device offense.

129

790.166 (2) 1st,PBL Possessing, selling, using, or attempting to use a weapon of mass destruction.

130

794.011 (2) 1st Attempted sexual battery; victim less than 12 years of age.

131

794.011 (2) Life Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.

132

794.011 (4) 1st Sexual battery; victim 12 years or older, certain circumstances.

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134	794.011 (8) (b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
135	794.08 (2)	1st	Female genital mutilation; victim younger than 18 years of age.
136	800.04 (5) (b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
137	812.13 (2) (a)	1st, PBL	Robbery with firearm or other deadly weapon.
138	812.133 (2) (a)	1st, PBL	Carjacking; firearm or other deadly weapon.
139	812.135 (2) (b)	1st	Home-invasion robbery with weapon.
140	817.568 (7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.

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141	827.03(2)	1st	Aggravated child abuse.
142	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
143	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
144	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
145	893.135	1st	Attempted capital trafficking offense.
146	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
147	893.135(1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
148	893.135(1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.

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149	893.135 (1) (d) 1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
150	893.135 (1) (e) 1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
151	893.135 (1) (f) 1.c.	1st	Trafficking in amphetamine, more than 200 grams.
152	893.135 (1) (h) 1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
153	893.135 (1) (j) 1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
154	893.135 (1) (k) 2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
155	896.101 (5) (c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
156	896.104 (4) (a) 3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.

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157 Section 5. For the purpose of incorporating the amendment
158 made by this act to section 782.04, Florida Statutes, in a
159 reference thereto, paragraph (i) of subsection (3) of section
160 947.146, Florida Statutes, is reenacted to read:

161 947.146 Control Release Authority.—

162 (3) Within 120 days prior to the date the state
163 correctional system is projected pursuant to s. 216.136 to
164 exceed 99 percent of total capacity, the authority shall
165 determine eligibility for and establish a control release date
166 for an appropriate number of parole ineligible inmates committed
167 to the department and incarcerated within the state who have
168 been determined by the authority to be eligible for
169 discretionary early release pursuant to this section. In
170 establishing control release dates, it is the intent of the
171 Legislature that the authority prioritize consideration of
172 eligible inmates closest to their tentative release date. The
173 authority shall rely upon commitment data on the offender
174 information system maintained by the department to initially
175 identify inmates who are to be reviewed for control release
176 consideration. The authority may use a method of objective risk
177 assessment in determining if an eligible inmate should be
178 released. Such assessment shall be a part of the department's
179 management information system. However, the authority shall have
180 sole responsibility for determining control release eligibility,
181 establishing a control release date, and effectuating the
182 release of a sufficient number of inmates to maintain the inmate
183 population between 99 percent and 100 percent of total capacity.

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184 Inmates who are ineligible for control release are inmates who
185 are parole eligible or inmates who:

186 (i) Are convicted, or have been previously convicted, of
187 committing or attempting to commit murder in the first, second,
188 or third degree under s. 782.04(1), (2), (3), or (4), or have
189 ever been convicted of any degree of murder or attempted murder
190 in another jurisdiction;

191

192 In making control release eligibility determinations under this
193 subsection, the authority may rely on any document leading to or
194 generated during the course of the criminal proceedings,
195 including, but not limited to, any presentence or postsentence
196 investigation or any information contained in arrest reports
197 relating to circumstances of the offense.

198 Section 6. This act shall take effect October 1, 2010.