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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
5 the unlawful distribution of methadone by a person
6 aged 18 or older when such drug is proven to be the
7 proximate cause of the death of the user; providing
8 penalties; reenacting ss. 775.0823(1) and (2),
9 782.065(1), 921.0022(3)(i), and 947.146(3)(i), F.S.,
10 relating to violent offenses committed against law
11 enforcement officers, correctional officers, state
12 attorneys, assistant state attorneys, justices, or
13 judges, murder of law enforcement officer, the
14 Criminal Punishment Code offense severity ranking
15 chart, and the Control Release Authority,
16 respectively, to incorporate the amendment to s.
17 782.04, F.S., in references thereto; providing an
18 effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Paragraph (a) of subsection (1) of section
23 782.04, Florida Statutes, is amended to read:

24 782.04 Murder.—

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

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

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

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- 30 a. Trafficking offense prohibited by s. 893.135(1),
31 b. Arson,
32 c. Sexual battery,
33 d. Robbery,
34 e. Burglary,
35 f. Kidnapping,
36 g. Escape,
37 h. Aggravated child abuse,
38 i. Aggravated abuse of an elderly person or disabled adult,
39 j. Aircraft piracy,
40 k. Unlawful throwing, placing, or discharging of a
41 destructive device or bomb,
42 l. Carjacking,
43 m. Home-invasion robbery,
44 n. Aggravated stalking,
45 o. Murder of another human being,
46 p. Resisting an officer with violence to his or her 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,

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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

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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 enforcement
63 officers, correctional officers, state attorneys, assistant
64 state attorneys, justices, or judges.—The Legislature does
65 hereby provide for an increase and certainty of penalty for any
66 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.

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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.

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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 ranking
108 chart.—

109 (3) OFFENSE SEVERITY RANKING CHART

110 (i) LEVEL 9

Florida Statute	Felony Degree	Description
316.193(3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.

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113	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
114	409.920(2)(b)1.c.	1st	Medicaid provider fraud; \$50,000 or more.
115	499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
116	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
117	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
118	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$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.
	782.04(3)	1st, PBL	Accomplice to murder in connection with

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arson, sexual battery, robbery,
burglary, and other specified felonies.

121 782.051(1) 1st Attempted felony murder while
perpetrating or attempting to perpetrate
a felony enumerated in s. 782.04(3).

122 782.07(2) 1st Aggravated manslaughter of an elderly
person or disabled adult.

123 787.01(1)(a)1. 1st,PBL Kidnapping; hold for ransom or reward or
as a shield or hostage.

124 787.01(1)(a)2. 1st,PBL Kidnapping with intent to commit or
facilitate commission of any felony.

125 787.01(1)(a)4. 1st,PBL Kidnapping with intent to interfere with
performance of any governmental or
political function.

126 787.02(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.

127 790.161 1st Attempted capital destructive device
offense.

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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.
133	794.011 (8) (b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
134	794.08 (2)	1st	Female genital mutilation; victim younger than 18 years of age.
135	800.04 (5) (b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
136	812.13 (2) (a)	1st, PBL	Robbery with firearm or other deadly weapon.
	812.133 (2) (a)	1st, PBL	Carjacking; firearm or other deadly

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weapon.

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812.135(2)(b) 1st Home-invasion robbery with weapon.

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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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827.03(2) 1st Aggravated child abuse.

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847.0145(1) 1st Selling, or otherwise transferring
custody or control, of a minor.

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847.0145(2) 1st Purchasing, or otherwise obtaining
custody or control, of a minor.

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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.

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893.135 1st Attempted capital trafficking offense.

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893.135(1)(a)3. 1st Trafficking in cannabis, more than
10,000 lbs.

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146	893.135 (1) (b) 1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
147	893.135 (1) (c) 1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
148	893.135 (1) (d) 1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
149	893.135 (1) (e) 1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
150	893.135 (1) (f) 1.c.	1st	Trafficking in amphetamine, more than 200 grams.
151	893.135 (1) (h) 1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
152	893.135 (1) (j) 1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
153	893.135 (1) (k) 2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
154	896.101 (5) (c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
	896.104 (4) (a) 3.	1st	Structuring transactions to evade reporting or registration requirements,

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financial transactions totaling or
exceeding \$100,000.

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

947.146 Control Release Authority.—

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

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182 population between 99 percent and 100 percent of total capacity.
183 Inmates who are ineligible for control release are inmates who
184 are parole eligible or inmates who:

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

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

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