

By Senator Bullard

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1 A bill to be entitled
2 An act relating to the death penalty; amending s.
3 775.082, F.S.; deleting provisions providing for the
4 death penalty for capital felonies; deleting
5 provisions relating to the effect of a declaration by
6 a court of last resort that the death penalty in a
7 capital felony is unconstitutional; amending ss. 27.51
8 and 27.511, F.S.; deleting provisions relating to
9 representation in death penalty cases; repealing ss.
10 27.7001, 27.7002, 27.701, 27.702, 27.703, 27.704,
11 27.705, 27.706, 27.707, 27.708, 27.7081, 27.709,
12 27.7091, 27.710, 27.711, and 27.715, F.S., relating to
13 capital collateral representation; amending s.
14 119.071, F.S.; deleting a public-records exemption
15 relating to capital collateral proceedings; amending
16 ss. 775.15 and 790.161, F.S.; deleting provisions
17 relating to the effect of a declaration by a court of
18 last resort declaring that the death penalty in a
19 capital felony is unconstitutional; repealing s.
20 913.13, F.S., relating to jurors in capital cases;
21 repealing s. 921.137, F.S., relating to prohibiting
22 the imposition of the death sentence upon a defendant
23 with mental retardation; repealing s. 921.141, F.S.,
24 relating to determination of whether to impose a
25 sentence of death or life imprisonment for a capital
26 felony; repealing s. 921.142, F.S., relating to
27 determination of whether to impose a sentence of death
28 or life imprisonment for a capital drug trafficking
29 felony; amending ss. 782.04, 794.011, and 893.135,

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30 F.S.; conforming provisions to changes made by the
31 act; repealing ss. 922.052, 922.06, 922.07, 922.08,
32 922.095, 922.10, 922.105, 922.108, 922.11, 922.111,
33 922.12, 922.14, and 922.15, F.S., relating to issuance
34 of warrant of execution, stay of execution of death
35 sentence, proceedings when person under sentence of
36 death appears to be insane, proceedings when person
37 under sentence of death appears to be pregnant,
38 grounds for death warrant, execution of death
39 sentence, prohibition against reduction of death
40 sentence as a result of determination that a method of
41 execution is unconstitutional, sentencing orders in
42 capital cases, regulation of execution, transfer to
43 state prison for safekeeping before death warrant
44 issued, return of warrant of execution issued by
45 Governor, sentence of death unexecuted for
46 unjustifiable reasons, and return of warrant of
47 execution issued by Supreme Court, respectively;
48 amending s. 924.055, F.S.; deleting provisions
49 relating to legislative intent concerning appeals and
50 postconviction proceedings in death penalty cases;
51 repealing ss. 924.056 and 924.057, F.S., relating to
52 commencement of capital postconviction actions for
53 which sentence of death is imposed; limitations on
54 actions; amending ss. 924.058 and 924.059, F.S.;

55 conforming provisions to changes made by the act;
56 amending s. 925.11, F.S.; deleting provisions relating
57 to preservation of DNA evidence in death penalty
58 cases; amending s. 945.10, F.S.; deleting a public-

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59 records exemption for the identity of executioners;
60 providing an effective date.

61
62 Be It Enacted by the Legislature of the State of Florida:

63
64 Section 1. Subsections (1) and (2) of section 775.082,
65 Florida Statutes, are amended to read:

66 775.082 Penalties; applicability of sentencing structures;
67 mandatory minimum sentences for certain reoffenders previously
68 released from prison.-

69 (1) A person who has been convicted of a capital felony
70 shall be ~~punished by death if the proceeding held to determine~~
71 ~~sentence according to the procedure set forth in s. 921.141~~
72 ~~results in findings by the court that such person shall be~~
73 ~~punished by death, otherwise such person shall be~~ punished by
74 life imprisonment and shall be ineligible for parole.

75 ~~(2) In the event the death penalty in a capital felony is~~
76 ~~held to be unconstitutional by the Florida Supreme Court or the~~
77 ~~United States Supreme Court, the court having jurisdiction over~~
78 ~~a person previously sentenced to death for a capital felony~~
79 ~~shall cause such person to be brought before the court, and the~~
80 ~~court shall sentence such person to life imprisonment as~~
81 ~~provided in subsection (1). No sentence of death shall be~~
82 ~~reduced as a result of a determination that a method of~~
83 ~~execution is held to be unconstitutional under the State~~
84 ~~Constitution or the Constitution of the United States.~~

85 Section 2. Paragraphs (d), (e), and (f) of subsection (1)
86 of section 27.51, Florida Statutes, are amended to read:

87 27.51 Duties of public defender.-

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88 (1) The public defender shall represent, without additional
89 compensation, any person determined to be indigent under s.
90 27.52 and:

91 (d) Sought by petition filed in such court to be
92 involuntarily placed as a mentally ill person under part I of
93 chapter 394, involuntarily committed as a sexually violent
94 predator under part V of chapter 394, or involuntarily admitted
95 to residential services as a person with developmental
96 disabilities under chapter 393. A public defender shall not
97 represent any plaintiff in a civil action brought under the
98 Florida Rules of Civil Procedure, the Federal Rules of Civil
99 Procedure, or the federal statutes, or represent a petitioner in
100 a rule challenge under chapter 120, unless specifically
101 authorized by statute; or

102 ~~(e) Convicted and sentenced to death, for purposes of~~
103 ~~handling an appeal to the Supreme Court; or~~

104 (e) ~~(f)~~ Is appealing a matter in a case arising under
105 paragraphs (a)-(d).

106 Section 3. Paragraphs (e), (f), and (g) of subsection (5)
107 of section 27.511, Florida Statutes, are amended to read:

108 27.511 Offices of criminal conflict and civil regional
109 counsel; legislative intent; qualifications; appointment;
110 duties.—

111 (5) When the Office of the Public Defender, at any time
112 during the representation of two or more defendants, determines
113 that the interests of those accused are so adverse or hostile
114 that they cannot all be counseled by the public defender or his
115 or her staff without a conflict of interest, or that none can be
116 counseled by the public defender or his or her staff because of

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117 a conflict of interest, and the court grants the public
118 defender's motion to withdraw, the office of criminal conflict
119 and civil regional counsel shall be appointed and shall provide
120 legal services, without additional compensation, to any person
121 determined to be indigent under s. 27.52, who is:

122 ~~(e) Convicted and sentenced to death, for purposes of~~
123 ~~handling an appeal to the Supreme Court;~~

124 (e)~~(f)~~ Appealing a matter in a case arising under
125 paragraphs (a)-(d); or

126 (f)~~(g)~~ Seeking correction, reduction, or modification of a
127 sentence under Rule 3.800, Florida Rules of Criminal Procedure,
128 or seeking postconviction relief under Rule 3.850, Florida Rules
129 of Criminal Procedure, if, in either case, the court determines
130 that appointment of counsel is necessary to protect a person's
131 due process rights.

132 Section 4. Sections 27.7001, 27.7002, 27.701, 27.702,
133 27.703, 27.704, 27.705, 27.706, 27.707, 27.708, 27.7081, 27.709,
134 27.7091, 27.710, 27.711, and 27.715 Florida Statutes, are
135 repealed.

136 Section 5. Paragraph (d) of subsection (1) of section
137 119.071, Florida Statutes, is amended to read:

138 119.071 General exemptions from inspection or copying of
139 public records.—

140 (1) AGENCY ADMINISTRATION.—

141 (d)1. A public record that was prepared by an agency
142 attorney (including an attorney employed or retained by the
143 agency or employed or retained by another public officer or
144 agency to protect or represent the interests of the agency
145 having custody of the record) or prepared at the attorney's

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146 express direction, that reflects a mental impression,
147 conclusion, litigation strategy, or legal theory of the attorney
148 or the agency, and that was prepared exclusively for civil or
149 criminal litigation or for adversarial administrative
150 proceedings, or that was prepared in anticipation of imminent
151 civil or criminal litigation or imminent adversarial
152 administrative proceedings, is exempt from s. 119.07(1) and s.
153 24(a), Art. I of the State Constitution until the conclusion of
154 the litigation or adversarial administrative proceedings. ~~For~~
155 ~~purposes of capital collateral litigation as set forth in s.~~
156 ~~27.7001, the Attorney General's office is entitled to claim this~~
157 ~~exemption for those public records prepared for direct appeal as~~
158 ~~well as for all capital collateral litigation after direct~~
159 ~~appeal until execution of sentence or imposition of a life~~
160 ~~sentence.~~

161 2. This exemption is not waived by the release of such
162 public record to another public employee or officer of the same
163 agency or any person consulted by the agency attorney. When
164 asserting the right to withhold a public record pursuant to this
165 paragraph, the agency shall identify the potential parties to
166 any such criminal or civil litigation or adversarial
167 administrative proceedings. If a court finds that the document
168 or other record has been improperly withheld under this
169 paragraph, the party seeking access to such document or record
170 shall be awarded reasonable attorney's fees and costs in
171 addition to any other remedy ordered by the court.

172 Section 6. Subsection (1) of section 775.15, Florida
173 Statutes, is amended to read:

174 775.15 Time limitations; general time limitations;

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175 exceptions.—

176 (1) A prosecution for a capital felony, a life felony, or a
177 felony that resulted in a death may be commenced at any time. ~~If~~
178 ~~the death penalty is held to be unconstitutional by the Florida~~
179 ~~Supreme Court or the United States Supreme Court, all crimes~~
180 ~~designated as capital felonies shall be considered life felonies~~
181 ~~for the purposes of this section, and prosecution for such~~
182 ~~crimes may be commenced at any time.~~

183 Section 7. Subsection (4) of section 790.161, Florida
184 Statutes, is amended to read:

185 790.161 Making, possessing, throwing, projecting, placing,
186 or discharging any destructive device or attempt so to do,
187 felony; penalties.—A person who willfully and unlawfully makes,
188 possesses, throws, projects, places, discharges, or attempts to
189 make, possess, throw, project, place, or discharge any
190 destructive device:

191 (4) If the act results in the death of another person,
192 commits a capital felony, punishable as provided in s. 775.082.
193 ~~In the event the death penalty in a capital felony is held to be~~
194 ~~unconstitutional by the Florida Supreme Court or the United~~
195 ~~States Supreme Court, the court having jurisdiction over a~~
196 ~~person previously sentenced to death for a capital felony shall~~
197 ~~cause such person to be brought before the court, and the court~~
198 ~~shall sentence such person to life imprisonment if convicted of~~
199 ~~murder in the first degree or of a capital felony under this~~
200 ~~subsection, and such person shall be ineligible for parole. No~~
201 ~~sentence of death shall be reduced as a result of a~~
202 ~~determination that a method of execution is held to be~~
203 ~~unconstitutional under the State Constitution or the~~

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204 ~~Constitution of the United States.~~

205 Section 8. Section 913.13, Florida Statutes, is repealed.

206 Section 9. Section 921.137, Florida Statutes, is repealed.

207 Section 10. Sections 921.141 and 921.142, Florida Statutes,
208 are repealed.

209 Section 11. Subsection (1) of section 782.04, Florida
210 Statutes, is amended to read:

211 782.04 Murder.—

212 (1) ~~(a)~~ The unlawful killing of a human being:

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

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

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

218 b. Arson,

219 c. Sexual battery,

220 d. Robbery,

221 e. Burglary,

222 f. Kidnapping,

223 g. Escape,

224 h. Aggravated child abuse,

225 i. Aggravated abuse of an elderly person or disabled adult,

226 j. Aircraft piracy,

227 k. Unlawful throwing, placing, or discharging of a
228 destructive device or bomb,

229 l. Carjacking,

230 m. Home-invasion robbery,

231 n. Aggravated stalking,

232 o. Murder of another human being,

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233 p. Resisting an officer with violence to his or her person,
234 q. Felony that is an act of terrorism or is in furtherance
235 of an act of terrorism; or

236 3. Which resulted from the unlawful distribution of any
237 substance controlled under s. 893.03(1), cocaine as described in
238 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
239 compound, derivative, or preparation of opium, or methadone by a
240 person 18 years of age or older, when such drug is proven to be
241 the proximate cause of the death of the user,

242
243 is murder in the first degree and constitutes a capital felony,
244 punishable as provided in s. 775.082.

245 ~~(b) In all cases under this section, the procedure set~~
246 ~~forth in s. 921.141 shall be followed in order to determine~~
247 ~~sentence of death or life imprisonment.~~

248 Section 12. Paragraph (a) of subsection (2) of section
249 794.011, Florida Statutes, is amended to read:

250 794.011 Sexual battery.—

251 (2)(a) A person 18 years of age or older who commits sexual
252 battery upon, or in an attempt to commit sexual battery injures
253 the sexual organs of, a person less than 12 years of age commits
254 a capital felony, punishable as provided in s. 775.082 and
255 ~~921.141~~.

256 Section 13. Paragraphs (b), (c), (d), (e), (f), (g), (h),
257 (i), (j), (k), and (l) of subsection (1) of section 893.135,
258 Florida Statutes, are amended to read:

259 893.135 Trafficking; mandatory sentences; suspension or
260 reduction of sentences; conspiracy to engage in trafficking.—

261 (1) Except as authorized in this chapter or in chapter 499

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262 and notwithstanding the provisions of s. 893.13:

263 (b)1. Any person who knowingly sells, purchases,
264 manufactures, delivers, or brings into this state, or who is
265 knowingly in actual or constructive possession of, 28 grams or
266 more of cocaine, as described in s. 893.03(2)(a)4., or of any
267 mixture containing cocaine, but less than 150 kilograms of
268 cocaine or any such mixture, commits a felony of the first
269 degree, which felony shall be known as "trafficking in cocaine,"
270 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
271 If the quantity involved:

272 a. Is 28 grams or more, but less than 200 grams, such
273 person shall be sentenced to a mandatory minimum term of
274 imprisonment of 3 years, and the defendant shall be ordered to
275 pay a fine of \$50,000.

276 b. Is 200 grams or more, but less than 400 grams, such
277 person shall be sentenced to a mandatory minimum term of
278 imprisonment of 7 years, and the defendant shall be ordered to
279 pay a fine of \$100,000.

280 c. Is 400 grams or more, but less than 150 kilograms, such
281 person shall be sentenced to a mandatory minimum term of
282 imprisonment of 15 calendar years and pay a fine of \$250,000.

283 2. Any person who knowingly sells, purchases, manufactures,
284 delivers, or brings into this state, or who is knowingly in
285 actual or constructive possession of, 150 kilograms or more of
286 cocaine, as described in s. 893.03(2)(a)4., commits the first
287 degree felony of trafficking in cocaine. A person who has been
288 convicted of the first degree felony of trafficking in cocaine
289 under this subparagraph shall be punished by life imprisonment
290 and is ineligible for any form of discretionary early release

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291 except pardon or executive clemency or conditional medical
292 release under s. 947.149. However, if the court determines that,
293 in addition to committing any act specified in this paragraph:

294 a. The person intentionally killed an individual or
295 counseled, commanded, induced, procured, or caused the
296 intentional killing of an individual and such killing was the
297 result; or

298 b. The person's conduct in committing that act led to a
299 natural, though not inevitable, lethal result,

300

301 such person commits the capital felony of trafficking in
302 cocaine, punishable as provided in s. ss. 775.082 and 921.142.
303 Any person sentenced for a capital felony under this paragraph
304 shall also be sentenced to pay the maximum fine provided under
305 subparagraph 1.

306 3. Any person who knowingly brings into this state 300
307 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
308 and who knows that the probable result of such importation would
309 be the death of any person, commits capital importation of
310 cocaine, a capital felony punishable as provided in s. ss.
311 775.082 and 921.142. Any person sentenced for a capital felony
312 under this paragraph shall also be sentenced to pay the maximum
313 fine provided under subparagraph 1.

314 (c)1. Any person who knowingly sells, purchases,
315 manufactures, delivers, or brings into this state, or who is
316 knowingly in actual or constructive possession of, 4 grams or
317 more of any morphine, opium, oxycodone, hydrocodone,
318 hydromorphone, or any salt, derivative, isomer, or salt of an
319 isomer thereof, including heroin, as described in s.

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320 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more
321 of any mixture containing any such substance, but less than 30
322 kilograms of such substance or mixture, commits a felony of the
323 first degree, which felony shall be known as "trafficking in
324 illegal drugs," punishable as provided in s. 775.082, s.
325 775.083, or s. 775.084. If the quantity involved:

326 a. Is 4 grams or more, but less than 14 grams, such person
327 shall be sentenced to a mandatory minimum term of imprisonment
328 of 3 years, and the defendant shall be ordered to pay a fine of
329 \$50,000.

330 b. Is 14 grams or more, but less than 28 grams, such person
331 shall be sentenced to a mandatory minimum term of imprisonment
332 of 15 years, and the defendant shall be ordered to pay a fine of
333 \$100,000.

334 c. Is 28 grams or more, but less than 30 kilograms, such
335 person shall be sentenced to a mandatory minimum term of
336 imprisonment of 25 calendar years and pay a fine of \$500,000.

337 2. Any person who knowingly sells, purchases, manufactures,
338 delivers, or brings into this state, or who is knowingly in
339 actual or constructive possession of, 30 kilograms or more of
340 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or
341 any salt, derivative, isomer, or salt of an isomer thereof,
342 including heroin, as described in s. 893.03(1)(b), (2)(a),
343 (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture
344 containing any such substance, commits the first degree felony
345 of trafficking in illegal drugs. A person who has been convicted
346 of the first degree felony of trafficking in illegal drugs under
347 this subparagraph shall be punished by life imprisonment and is
348 ineligible for any form of discretionary early release except

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349 pardon or executive clemency or conditional medical release
350 under s. 947.149. However, if the court determines that, in
351 addition to committing any act specified in this paragraph:

352 a. The person intentionally killed an individual or
353 counseled, commanded, induced, procured, or caused the
354 intentional killing of an individual and such killing was the
355 result; or

356 b. The person's conduct in committing that act led to a
357 natural, though not inevitable, lethal result,

358
359 such person commits the capital felony of trafficking in illegal
360 drugs, punishable as provided in s. ~~ss.~~ 775.082 ~~and 921.142~~. Any
361 person sentenced for a capital felony under this paragraph shall
362 also be sentenced to pay the maximum fine provided under
363 subparagraph 1.

364 3. Any person who knowingly brings into this state 60
365 kilograms or more of any morphine, opium, oxycodone,
366 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
367 salt of an isomer thereof, including heroin, as described in s.
368 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
369 more of any mixture containing any such substance, and who knows
370 that the probable result of such importation would be the death
371 of any person, commits capital importation of illegal drugs, a
372 capital felony punishable as provided in s. ~~ss.~~ 775.082 ~~and~~
373 ~~921.142~~. Any person sentenced for a capital felony under this
374 paragraph shall also be sentenced to pay the maximum fine
375 provided under subparagraph 1.

376 (d)1. Any person who knowingly sells, purchases,
377 manufactures, delivers, or brings into this state, or who is

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378 knowingly in actual or constructive possession of, 28 grams or
379 more of phencyclidine or of any mixture containing
380 phencyclidine, as described in s. 893.03(2)(b), commits a felony
381 of the first degree, which felony shall be known as "trafficking
382 in phencyclidine," punishable as provided in s. 775.082, s.
383 775.083, or s. 775.084. If the quantity involved:

384 a. Is 28 grams or more, but less than 200 grams, such
385 person shall be sentenced to a mandatory minimum term of
386 imprisonment of 3 years, and the defendant shall be ordered to
387 pay a fine of \$50,000.

388 b. Is 200 grams or more, but less than 400 grams, such
389 person shall be sentenced to a mandatory minimum term of
390 imprisonment of 7 years, and the defendant shall be ordered to
391 pay a fine of \$100,000.

392 c. Is 400 grams or more, such person shall be sentenced to
393 a mandatory minimum term of imprisonment of 15 calendar years
394 and pay a fine of \$250,000.

395 2. Any person who knowingly brings into this state 800
396 grams or more of phencyclidine or of any mixture containing
397 phencyclidine, as described in s. 893.03(2)(b), and who knows
398 that the probable result of such importation would be the death
399 of any person commits capital importation of phencyclidine, a
400 capital felony punishable as provided in s. 775.082 ~~and~~
401 ~~921.142~~. Any person sentenced for a capital felony under this
402 paragraph shall also be sentenced to pay the maximum fine
403 provided under subparagraph 1.

404 (e)1. Any person who knowingly sells, purchases,
405 manufactures, delivers, or brings into this state, or who is
406 knowingly in actual or constructive possession of, 200 grams or

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407 more of methaqualone or of any mixture containing methaqualone,
408 as described in s. 893.03(1)(d), commits a felony of the first
409 degree, which felony shall be known as "trafficking in
410 methaqualone," punishable as provided in s. 775.082, s. 775.083,
411 or s. 775.084. If the quantity involved:

412 a. Is 200 grams or more, but less than 5 kilograms, such
413 person shall be sentenced to a mandatory minimum term of
414 imprisonment of 3 years, and the defendant shall be ordered to
415 pay a fine of \$50,000.

416 b. Is 5 kilograms or more, but less than 25 kilograms, such
417 person shall be sentenced to a mandatory minimum term of
418 imprisonment of 7 years, and the defendant shall be ordered to
419 pay a fine of \$100,000.

420 c. Is 25 kilograms or more, such person shall be sentenced
421 to a mandatory minimum term of imprisonment of 15 calendar years
422 and pay a fine of \$250,000.

423 2. Any person who knowingly brings into this state 50
424 kilograms or more of methaqualone or of any mixture containing
425 methaqualone, as described in s. 893.03(1)(d), and who knows
426 that the probable result of such importation would be the death
427 of any person commits capital importation of methaqualone, a
428 capital felony punishable as provided in s. 775.082 ~~and~~
429 ~~921.142~~. Any person sentenced for a capital felony under this
430 paragraph shall also be sentenced to pay the maximum fine
431 provided under subparagraph 1.

432 (f)1. Any person who knowingly sells, purchases,
433 manufactures, delivers, or brings into this state, or who is
434 knowingly in actual or constructive possession of, 14 grams or
435 more of amphetamine, as described in s. 893.03(2)(c)2., or

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436 methamphetamine, as described in s. 893.03(2)(c)4., or of any
437 mixture containing amphetamine or methamphetamine, or
438 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
439 in conjunction with other chemicals and equipment utilized in
440 the manufacture of amphetamine or methamphetamine, commits a
441 felony of the first degree, which felony shall be known as
442 "trafficking in amphetamine," punishable as provided in s.
443 775.082, s. 775.083, or s. 775.084. If the quantity involved:
444 a. Is 14 grams or more, but less than 28 grams, such person
445 shall be sentenced to a mandatory minimum term of imprisonment
446 of 3 years, and the defendant shall be ordered to pay a fine of
447 \$50,000.
448 b. Is 28 grams or more, but less than 200 grams, such
449 person shall be sentenced to a mandatory minimum term of
450 imprisonment of 7 years, and the defendant shall be ordered to
451 pay a fine of \$100,000.
452 c. Is 200 grams or more, such person shall be sentenced to
453 a mandatory minimum term of imprisonment of 15 calendar years
454 and pay a fine of \$250,000.
455 2. Any person who knowingly manufactures or brings into
456 this state 400 grams or more of amphetamine, as described in s.
457 893.03(2)(c)2., or methamphetamine, as described in s.
458 893.03(2)(c)4., or of any mixture containing amphetamine or
459 methamphetamine, or phenylacetone, phenylacetic acid,
460 pseudoephedrine, or ephedrine in conjunction with other
461 chemicals and equipment used in the manufacture of amphetamine
462 or methamphetamine, and who knows that the probable result of
463 such manufacture or importation would be the death of any person
464 commits capital manufacture or importation of amphetamine, a

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465 capital felony punishable as provided in s. 775.082 and
466 ~~921.142~~. Any person sentenced for a capital felony under this
467 paragraph shall also be sentenced to pay the maximum fine
468 provided under subparagraph 1.

469 (g)1. Any person who knowingly sells, purchases,
470 manufactures, delivers, or brings into this state, or who is
471 knowingly in actual or constructive possession of, 4 grams or
472 more of flunitrazepam or any mixture containing flunitrazepam as
473 described in s. 893.03(1)(a) commits a felony of the first
474 degree, which felony shall be known as "trafficking in
475 flunitrazepam," punishable as provided in s. 775.082, s.
476 775.083, or s. 775.084. If the quantity involved:

477 a. Is 4 grams or more but less than 14 grams, such person
478 shall be sentenced to a mandatory minimum term of imprisonment
479 of 3 years, and the defendant shall be ordered to pay a fine of
480 \$50,000.

481 b. Is 14 grams or more but less than 28 grams, such person
482 shall be sentenced to a mandatory minimum term of imprisonment
483 of 7 years, and the defendant shall be ordered to pay a fine of
484 \$100,000.

485 c. Is 28 grams or more but less than 30 kilograms, such
486 person shall be sentenced to a mandatory minimum term of
487 imprisonment of 25 calendar years and pay a fine of \$500,000.

488 2. Any person who knowingly sells, purchases, manufactures,
489 delivers, or brings into this state or who is knowingly in
490 actual or constructive possession of 30 kilograms or more of
491 flunitrazepam or any mixture containing flunitrazepam as
492 described in s. 893.03(1)(a) commits the first degree felony of
493 trafficking in flunitrazepam. A person who has been convicted of

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494 the first degree felony of trafficking in flunitrazepam under
495 this subparagraph shall be punished by life imprisonment and is
496 ineligible for any form of discretionary early release except
497 pardon or executive clemency or conditional medical release
498 under s. 947.149. However, if the court determines that, in
499 addition to committing any act specified in this paragraph:

500 a. The person intentionally killed an individual or
501 counseled, commanded, induced, procured, or caused the
502 intentional killing of an individual and such killing was the
503 result; or

504 b. The person's conduct in committing that act led to a
505 natural, though not inevitable, lethal result,

506
507 such person commits the capital felony of trafficking in
508 flunitrazepam, punishable as provided in s. 775.082 ~~and~~
509 ~~921.142~~. Any person sentenced for a capital felony under this
510 paragraph shall also be sentenced to pay the maximum fine
511 provided under subparagraph 1.

512 (h)1. Any person who knowingly sells, purchases,
513 manufactures, delivers, or brings into this state, or who is
514 knowingly in actual or constructive possession of, 1 kilogram or
515 more of gamma-hydroxybutyric acid (GHB), as described in s.
516 893.03(1)(d), or any mixture containing gamma-hydroxybutyric
517 acid (GHB), commits a felony of the first degree, which felony
518 shall be known as "trafficking in gamma-hydroxybutyric acid
519 (GHB)," punishable as provided in s. 775.082, s. 775.083, or s.
520 775.084. If the quantity involved:

521 a. Is 1 kilogram or more but less than 5 kilograms, such
522 person shall be sentenced to a mandatory minimum term of

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523 imprisonment of 3 years, and the defendant shall be ordered to
524 pay a fine of \$50,000.

525 b. Is 5 kilograms or more but less than 10 kilograms, such
526 person shall be sentenced to a mandatory minimum term of
527 imprisonment of 7 years, and the defendant shall be ordered to
528 pay a fine of \$100,000.

529 c. Is 10 kilograms or more, such person shall be sentenced
530 to a mandatory minimum term of imprisonment of 15 calendar years
531 and pay a fine of \$250,000.

532 2. Any person who knowingly manufactures or brings into
533 this state 150 kilograms or more of gamma-hydroxybutyric acid
534 (GHB), as described in s. 893.03(1)(d), or any mixture
535 containing gamma-hydroxybutyric acid (GHB), and who knows that
536 the probable result of such manufacture or importation would be
537 the death of any person commits capital manufacture or
538 importation of gamma-hydroxybutyric acid (GHB), a capital felony
539 punishable as provided in s. ss. 775.082 ~~and 921.142~~. Any person
540 sentenced for a capital felony under this paragraph shall also
541 be sentenced to pay the maximum fine provided under subparagraph
542 1.

543 (i)1. Any person who knowingly sells, purchases,
544 manufactures, delivers, or brings into this state, or who is
545 knowingly in actual or constructive possession of, 1 kilogram or
546 more of gamma-butyrolactone (GBL), as described in s.
547 893.03(1)(d), or any mixture containing gamma-butyrolactone
548 (GBL), commits a felony of the first degree, which felony shall
549 be known as "trafficking in gamma-butyrolactone (GBL),"
550 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
551 If the quantity involved:

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552 a. Is 1 kilogram or more but less than 5 kilograms, such
553 person shall be sentenced to a mandatory minimum term of
554 imprisonment of 3 years, and the defendant shall be ordered to
555 pay a fine of \$50,000.

556 b. Is 5 kilograms or more but less than 10 kilograms, such
557 person shall be sentenced to a mandatory minimum term of
558 imprisonment of 7 years, and the defendant shall be ordered to
559 pay a fine of \$100,000.

560 c. Is 10 kilograms or more, such person shall be sentenced
561 to a mandatory minimum term of imprisonment of 15 calendar years
562 and pay a fine of \$250,000.

563 2. Any person who knowingly manufactures or brings into the
564 state 150 kilograms or more of gamma-butyrolactone (GBL), as
565 described in s. 893.03(1)(d), or any mixture containing gamma-
566 butyrolactone (GBL), and who knows that the probable result of
567 such manufacture or importation would be the death of any person
568 commits capital manufacture or importation of gamma-
569 butyrolactone (GBL), a capital felony punishable as provided in
570 s. 775.082 and 921.142. Any person sentenced for a capital
571 felony under this paragraph shall also be sentenced to pay the
572 maximum fine provided under subparagraph 1.

573 (j)1. Any person who knowingly sells, purchases,
574 manufactures, delivers, or brings into this state, or who is
575 knowingly in actual or constructive possession of, 1 kilogram or
576 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of
577 any mixture containing 1,4-Butanediol, commits a felony of the
578 first degree, which felony shall be known as "trafficking in
579 1,4-Butanediol," punishable as provided in s. 775.082, s.
580 775.083, or s. 775.084. If the quantity involved:

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581 a. Is 1 kilogram or more, but less than 5 kilograms, such
582 person shall be sentenced to a mandatory minimum term of
583 imprisonment of 3 years, and the defendant shall be ordered to
584 pay a fine of \$50,000.

585 b. Is 5 kilograms or more, but less than 10 kilograms, such
586 person shall be sentenced to a mandatory minimum term of
587 imprisonment of 7 years, and the defendant shall be ordered to
588 pay a fine of \$100,000.

589 c. Is 10 kilograms or more, such person shall be sentenced
590 to a mandatory minimum term of imprisonment of 15 calendar years
591 and pay a fine of \$500,000.

592 2. Any person who knowingly manufactures or brings into
593 this state 150 kilograms or more of 1,4-Butanediol as described
594 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
595 and who knows that the probable result of such manufacture or
596 importation would be the death of any person commits capital
597 manufacture or importation of 1,4-Butanediol, a capital felony
598 punishable as provided in s. ss. 775.082 and ~~921.142~~. Any person
599 sentenced for a capital felony under this paragraph shall also
600 be sentenced to pay the maximum fine provided under subparagraph
601 1.

602 (k)1. Any person who knowingly sells, purchases,
603 manufactures, delivers, or brings into this state, or who is
604 knowingly in actual or constructive possession of, 10 grams or
605 more of any of the following substances described in s.
606 893.03(1)(a) or (c):

- 607 a. 3,4-Methylenedioxymethamphetamine (MDMA);
608 b. 4-Bromo-2,5-dimethoxyamphetamine;
609 c. 4-Bromo-2,5-dimethoxyphenethylamine;

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- 610 d. 2,5-Dimethoxyamphetamine;
611 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
612 f. N-ethylamphetamine;
613 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
614 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
615 i. 4-methoxyamphetamine;
616 j. 4-methoxymethamphetamine;
617 k. 4-Methyl-2,5-dimethoxyamphetamine;
618 l. 3,4-Methylenedioxy-N-ethylamphetamine;
619 m. 3,4-Methylenedioxyamphetamine;
620 n. N,N-dimethylamphetamine; or
621 o. 3,4,5-Trimethoxyamphetamine,

622
623 individually or in any combination of or any mixture containing
624 any substance listed in sub-subparagraphs a.-o., commits a
625 felony of the first degree, which felony shall be known as
626 "trafficking in Phenethylamines," punishable as provided in s.
627 775.082, s. 775.083, or s. 775.084.

628 2. If the quantity involved:

629 a. Is 10 grams or more but less than 200 grams, such person
630 shall be sentenced to a mandatory minimum term of imprisonment
631 of 3 years, and the defendant shall be ordered to pay a fine of
632 \$50,000.

633 b. Is 200 grams or more, but less than 400 grams, such
634 person shall be sentenced to a mandatory minimum term of
635 imprisonment of 7 years, and the defendant shall be ordered to
636 pay a fine of \$100,000.

637 c. Is 400 grams or more, such person shall be sentenced to
638 a mandatory minimum term of imprisonment of 15 calendar years

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639 and pay a fine of \$250,000.

640 3. Any person who knowingly manufactures or brings into
641 this state 30 kilograms or more of any of the following
642 substances described in s. 893.03(1)(a) or (c):

- 643 a. 3,4-Methylenedioxymethamphetamine (MDMA);
644 b. 4-Bromo-2,5-dimethoxyamphetamine;
645 c. 4-Bromo-2,5-dimethoxyphenethylamine;
646 d. 2,5-Dimethoxyamphetamine;
647 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
648 f. N-ethylamphetamine;
649 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
650 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
651 i. 4-methoxyamphetamine;
652 j. 4-methoxymethamphetamine;
653 k. 4-Methyl-2,5-dimethoxyamphetamine;
654 l. 3,4-Methylenedioxy-N-ethylamphetamine;
655 m. 3,4-Methylenedioxyamphetamine;
656 n. N,N-dimethylamphetamine; or
657 o. 3,4,5-Trimethoxyamphetamine,

658

659 individually or in any combination of or any mixture containing
660 any substance listed in sub-subparagraphs a.-o., and who knows
661 that the probable result of such manufacture or importation
662 would be the death of any person commits capital manufacture or
663 importation of Phenethylamines, a capital felony punishable as
664 provided in s. ss. 775.082 and 921.142. Any person sentenced for
665 a capital felony under this paragraph shall also be sentenced to
666 pay the maximum fine provided under subparagraph 1.

667 (1)1. Any person who knowingly sells, purchases,

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668 manufactures, delivers, or brings into this state, or who is
669 knowingly in actual or constructive possession of, 1 gram or
670 more of lysergic acid diethylamide (LSD) as described in s.
671 893.03(1)(c), or of any mixture containing lysergic acid
672 diethylamide (LSD), commits a felony of the first degree, which
673 felony shall be known as "trafficking in lysergic acid
674 diethylamide (LSD)," punishable as provided in s. 775.082, s.
675 775.083, or s. 775.084. If the quantity involved:

676 a. Is 1 gram or more, but less than 5 grams, such person
677 shall be sentenced to a mandatory minimum term of imprisonment
678 of 3 years, and the defendant shall be ordered to pay a fine of
679 \$50,000.

680 b. Is 5 grams or more, but less than 7 grams, such person
681 shall be sentenced to a mandatory minimum term of imprisonment
682 of 7 years, and the defendant shall be ordered to pay a fine of
683 \$100,000.

684 c. Is 7 grams or more, such person shall be sentenced to a
685 mandatory minimum term of imprisonment of 15 calendar years and
686 pay a fine of \$500,000.

687 2. Any person who knowingly manufactures or brings into
688 this state 7 grams or more of lysergic acid diethylamide (LSD)
689 as described in s. 893.03(1)(c), or any mixture containing
690 lysergic acid diethylamide (LSD), and who knows that the
691 probable result of such manufacture or importation would be the
692 death of any person commits capital manufacture or importation
693 of lysergic acid diethylamide (LSD), a capital felony punishable
694 as provided in s. ss. 775.082 and 921.142. Any person sentenced
695 for a capital felony under this paragraph shall also be
696 sentenced to pay the maximum fine provided under subparagraph 1.

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697 Section 14. Sections 922.052, 922.06, 922.07, 922.08,
698 922.095, 922.10, 922.105, 922.108, 922.11, 922.111, 922.12,
699 922.14, and 922.15, Florida Statutes, are repealed.

700 Section 15. Section 924.055, Florida Statutes, is amended
701 to read:

702 924.055 Postconviction review in capital cases; legislative
703 findings and intent.—

704 ~~(1) It is the intent of the Legislature to reduce delays in~~
705 ~~capital cases and to ensure that all appeals and postconviction~~
706 ~~actions in capital cases are resolved within 5 years after the~~
707 ~~date a sentence of death is imposed in the circuit court. All~~
708 ~~capital postconviction actions must be filed as early as~~
709 ~~possible after the imposition of a sentence of death which may~~
710 ~~be during a direct appeal of the conviction and sentence. A~~
711 ~~person sentenced to death or that person's capital~~
712 ~~postconviction counsel must file any postconviction legal action~~
713 ~~in compliance with the statutes of limitation established in s.~~
714 ~~924.056 and elsewhere in this chapter. Except as expressly~~
715 ~~allowed by s. 924.056(5), a person sentenced to death or that~~
716 ~~person's capital postconviction counsel may not file more than~~
717 ~~one postconviction action in a sentencing court and one appeal~~
718 ~~therefrom to the Florida Supreme Court, unless authorized by~~
719 ~~law.~~

720 ~~(2)~~ It is the further intent of the Legislature that no
721 state resources be expended in violation of this act. In the
722 event that any state employee or party contracting with the
723 state violates the provisions of this act, the Attorney General
724 shall deliver to the Speaker of the House of Representatives and
725 the President of the Senate a copy of any court pleading or

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726 order that describes or adjudicates a violation.

727 Section 16. Sections 924.056 and 924.057, Florida Statutes,
728 are repealed.

729 Section 17. Subsection (1) of section 924.058, Florida
730 Statutes, is amended to read:

731 924.058 Capital postconviction claims.—This section shall
732 regulate the procedures in actions for capital postconviction
733 relief commencing after the effective date of this act unless
734 and until such procedures are revised by rule or rules adopted
735 by the Florida Supreme Court which specifically reference this
736 section.

737 (1) The defendant or the defendant's capital postconviction
738 counsel shall not file more than one capital postconviction
739 action in the sentencing court, one appeal therefrom in the
740 Florida Supreme Court, and one original capital postconviction
741 action alleging the ineffectiveness of direct appeal counsel in
742 the Florida Supreme Court, ~~except as expressly allowed by s.~~
743 ~~924.056(5).~~

744 Section 18. Subsection (8) of section 924.059, Florida
745 Statutes, is amended to read:

746 924.059 Time limitations and judicial review in capital
747 postconviction actions.—This section shall regulate the
748 procedures in actions for capital postconviction relief
749 commencing after the effective date of this act unless and until
750 such procedures are revised by rule or rules adopted by the
751 Florida Supreme Court which specifically reference this section.

752 (8) A capital postconviction action filed in violation of
753 the time limitations provided by statute is barred, and all
754 claims raised therein are waived. ~~A state court shall not~~

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755 ~~consider any capital postconviction action filed in violation of~~
756 ~~s. 924.056 or s. 924.057.~~ The Attorney General shall deliver to
757 the Governor, the President of the Senate, and the Speaker of
758 the House of Representatives a copy of any pleading or order
759 that alleges or adjudicates any violation of this provision.

760 Section 19. Subsection (4) of section 925.11, Florida
761 Statutes, is amended to read:

762 925.11 Postsentencing DNA testing.—

763 (4) PRESERVATION OF EVIDENCE.—

764 ~~(a)~~ Governmental entities that may be in possession of any
765 physical evidence in the case, including, but not limited to,
766 any investigating law enforcement agency, the clerk of the
767 court, the prosecuting authority, or the Department of Law
768 Enforcement shall maintain any physical evidence collected at
769 the time of the crime for which a postsentencing testing of DNA
770 may be requested.

771 ~~(b) In a case in which the death penalty is imposed, the~~
772 ~~evidence shall be maintained for 60 days after execution of the~~
773 ~~sentence. In all other cases, a governmental entity may dispose~~
774 ~~of the physical evidence if the term of the sentence imposed in~~
775 ~~the case has expired and no other provision of law or rule~~
776 ~~requires that the physical evidence be preserved or retained.~~

777 Section 20. Paragraphs (g) and (h) of subsection (1) and
778 subsection (2) of section 945.10, Florida Statutes, are amended
779 to read:

780 945.10 Confidential information.—

781 (1) Except as otherwise provided by law or in this section,
782 the following records and information held by the Department of
783 Corrections are confidential and exempt from the provisions of

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784 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

785 ~~(g) Information which identifies an executioner, or any~~
786 ~~person prescribing, preparing, compounding, dispensing, or~~
787 ~~administering a lethal injection.~~

788 (g) ~~(h)~~ Records that are otherwise confidential or exempt
789 from public disclosure by law.

790 (2) The records and information specified in subsection
791 ~~paragraphs~~ (1) ~~(a)~~ ~~(h)~~ may be released as follows unless
792 expressly prohibited by federal law:

793 (a) Information specified in paragraphs (1) (b), (d), and
794 (f) to the Office of the Governor, the Legislature, the Parole
795 Commission, the Department of Children and Family Services, a
796 private correctional facility or program that operates under a
797 contract, the Department of Legal Affairs, a state attorney, the
798 court, or a law enforcement agency. A request for records or
799 information pursuant to this paragraph need not be in writing.

800 (b) Information specified in paragraphs (1) (c), (e), and
801 (g) ~~(h)~~ to the Office of the Governor, the Legislature, the
802 Parole Commission, the Department of Children and Family
803 Services, a private correctional facility or program that
804 operates under contract, the Department of Legal Affairs, a
805 state attorney, the court, or a law enforcement agency. A
806 request for records or information pursuant to this paragraph
807 must be in writing and a statement provided demonstrating a need
808 for the records or information.

809 (c) Information specified in paragraph (1) (b) to an
810 attorney representing an inmate under sentence of death, except
811 those portions of the records containing a victim's statement or
812 address, or the statement or address of a relative of the

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813 victim. A request for records of information pursuant to this
814 paragraph must be in writing and a statement provided
815 demonstrating a need for the records or information.

816 (d) Information specified in paragraph (1)(b) to a public
817 defender representing a defendant, except those portions of the
818 records containing a victim's statement or address, or the
819 statement or address of a relative of the victim. A request for
820 records or information pursuant to this paragraph need not be in
821 writing.

822 (e) Information specified in paragraph (1)(b) to state or
823 local governmental agencies. A request for records or
824 information pursuant to this paragraph must be in writing and a
825 statement provided demonstrating a need for the records or
826 information.

827 (f) Information specified in paragraph (1)(b) to a person
828 conducting legitimate research. A request for records and
829 information pursuant to this paragraph must be in writing, the
830 person requesting the records or information must sign a
831 confidentiality agreement, and the department must approve the
832 request in writing.

833 (g) Information specified in paragraph (1)(a) to the
834 Department of Health and the county health department where an
835 inmate plans to reside if he or she has tested positive for the
836 presence of the antibody or antigen to human immunodeficiency
837 virus infection.

838
839 Records and information released under this subsection remain
840 confidential and exempt from the provisions of s. 119.07(1) and
841 s. 24(a), Art. I of the State Constitution when held by the

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842 receiving person or entity.

843 Section 21. This act shall take effect July 1, 2011.