

1 A bill to be entitled
 2 An act relating to murder; amending s. 782.04, F.S.;
 3 providing that the unlawful killing of a human being
 4 when committed by a person engaged in the perpetration
 5 of, or in the attempt to perpetrate, the offense of
 6 aggravated fleeing or eluding, is murder of a
 7 specified degree, dependent upon certain
 8 circumstances; amending s. 921.0022, F.S.; revising
 9 provisions of the offense severity ranking chart of
 10 the Criminal Punishment Code to conform to changes
 11 made by the act; reenacting ss. 775.0823, 782.051,
 12 782.065, and 947.146(3), F.S., relating to violent
 13 offenses committed against law enforcement officers
 14 and others, attempted felony murder, murder of a law
 15 enforcement officer, and the Control Release
 16 Authority, respectively, to incorporate the amendments
 17 made to s. 782.04, F.S., in references thereto;
 18 providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Section 782.04, Florida Statutes, is amended to
 23 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

HB 667

2012

29 of, or in the attempt to perpetrate, any:
 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
 39 adult,
 40 j. Aircraft piracy,
 41 k. Unlawful throwing, placing, or discharging of a
 42 destructive device or bomb,
 43 l. Carjacking,
 44 m. Home-invasion robbery,
 45 n. Aggravated stalking,
 46 o. Murder of another human being,
 47 p. Resisting an officer with violence to his or her
 48 person,
 49 q. Aggravated fleeing or eluding,
 50 r.~~q.~~ Felony that is an act of terrorism or is in
 51 furtherance of an act of terrorism; or
 52 3. Which resulted from the unlawful distribution of any
 53 substance controlled under s. 893.03(1), cocaine as described in
 54 s. 893.03(2) (a)4., opium or any synthetic or natural salt,
 55 compound, derivative, or preparation of opium, or methadone by a
 56 person 18 years of age or older, when such drug is proven to be

57 | the proximate cause of the death of the user,
 58 |
 59 | is murder in the first degree and constitutes a capital felony,
 60 | punishable as provided in s. 775.082.

61 | (b) In all cases under this section, the procedure set
 62 | forth in s. 921.141 shall be followed in order to determine
 63 | sentence of death or life imprisonment.

64 | (2) The unlawful killing of a human being, when
 65 | perpetrated by any act imminently dangerous to another and
 66 | evincing a depraved mind regardless of human life, although
 67 | without any premeditated design to effect the death of any
 68 | particular individual, is murder in the second degree and
 69 | constitutes a felony of the first degree, punishable by
 70 | imprisonment for a term of years not exceeding life or as
 71 | provided in s. 775.082, s. 775.083, or s. 775.084.

72 | (3) When a human being ~~person~~ is killed during ~~in~~ the
 73 | perpetration of, or during ~~in~~ the attempt to perpetrate, any:

- 74 | (a) Trafficking offense prohibited by s. 893.135(1),
- 75 | (b) Arson,
- 76 | (c) Sexual battery,
- 77 | (d) Robbery,
- 78 | (e) Burglary,
- 79 | (f) Kidnapping,
- 80 | (g) Escape,
- 81 | (h) Aggravated child abuse,
- 82 | (i) Aggravated abuse of an elderly person or disabled
- 83 | adult,
- 84 | (j) Aircraft piracy,

85 (k) Unlawful throwing, placing, or discharging of a
 86 destructive device or bomb,
 87 (l) Carjacking,
 88 (m) Home-invasion robbery,
 89 (n) Aggravated stalking,
 90 (o) Murder of another human being,
 91 (p) Aggravated fleeing or eluding,
 92 (q)~~(p)~~ Resisting an officer with violence to his or her
 93 person, or
 94 (r)~~(q)~~ Felony that is an act of terrorism or is in
 95 furtherance of an act of terrorism,
 96
 97 by a person other than the person engaged in the perpetration of
 98 or in the attempt to perpetrate such felony, the person
 99 perpetrating or attempting to perpetrate such felony is guilty
 100 of murder in the second degree, which constitutes a felony of
 101 the first degree, punishable by imprisonment for a term of years
 102 not exceeding life or as provided in s. 775.082, s. 775.083, or
 103 s. 775.084.
 104 (4) The unlawful killing of a human being, when
 105 perpetrated without any design to effect death, by a person
 106 engaged in the perpetration of, or in the attempt to perpetrate,
 107 any felony other than any:
 108 (a) Trafficking offense prohibited by s. 893.135(1),
 109 (b) Arson,
 110 (c) Sexual battery,
 111 (d) Robbery,
 112 (e) Burglary,

HB 667

2012

- 113 (f) Kidnapping,
- 114 (g) Escape,
- 115 (h) Aggravated child abuse,
- 116 (i) Aggravated abuse of an elderly person or disabled
- 117 adult,
- 118 (j) Aircraft piracy,
- 119 (k) Unlawful throwing, placing, or discharging of a
- 120 destructive device or bomb,
- 121 (l) Unlawful distribution of any substance controlled
- 122 under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4.,
- 123 or opium or any synthetic or natural salt, compound, derivative,
- 124 or preparation of opium by a person 18 years of age or older,
- 125 when such drug is proven to be the proximate cause of the death
- 126 of the user,
- 127 (m) Carjacking,
- 128 (n) Home-invasion robbery,
- 129 (o) Aggravated stalking,
- 130 (p) Murder of another human being,
- 131 (q) Aggravated fleeing or eluding,
- 132 (r)~~(q)~~ Resisting an officer with violence to his or her
- 133 person, or
- 134 (s)~~(r)~~ Felony that is an act of terrorism or is in
- 135 furtherance of an act of terrorism,
- 136
- 137 is murder in the third degree and constitutes a felony of the
- 138 second degree, punishable as provided in s. 775.082, s. 775.083,
- 139 or s. 775.084.
- 140 (5) As used in this section, the term "terrorism" means an

HB 667

2012

141 activity that:

142 (a)1. Involves a violent act or an act dangerous to human
 143 life which is a violation of the criminal laws of this state or
 144 of the United States; or

145 2. Involves a violation of s. 815.06; and

146 (b) Is intended to:

147 1. Intimidate, injure, or coerce a civilian population;

148 2. Influence the policy of a government by intimidation or
 149 coercion; or

150 3. Affect the conduct of government through destruction of
 151 property, assassination, murder, kidnapping, or aircraft piracy.

152 Section 2. Paragraphs (h) and (i) of subsection (3) of
 153 section 921.0022, Florida Statutes, are amended to read:

154 921.0022 Criminal Punishment Code; offense severity
 155 ranking chart.—

156 (3) OFFENSE SEVERITY RANKING CHART

157 (h) LEVEL 8

158

Florida Statute	Felony Degree	Description
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159

316.193 (3) (c) 3.a.	2nd	DUI manslaughter.
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160

316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
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161

HB 667

2012

162	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
163	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
164	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
165	560.123 (8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
166	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
167	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
168	777.03 (2) (a)	1st	Accessory after the fact, capital felony.

HB 667

2012

169	782.04 (4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, <u>aggravated fleeing or eluding</u> , aircraft piracy, or unlawfully discharging bomb.
170	782.051 (2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
171	782.071 (1) (b)	1st	Committing vehicular homicide and failing to render aid or give information.
172	782.072 (2)	1st	Committing vessel homicide and failing to render aid or give information.
173	790.161 (3)	1st	Discharging a destructive device which results in bodily harm or property damage.
174	794.011 (5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.

HB 667

2012

- 175 794.08 (3) 2nd Female genital mutilation, removal of a
victim younger than 18 years of age
from this state.
- 176 800.04 (4) 2nd Lewd or lascivious battery.
- 177 806.01 (1) 1st Maliciously damage dwelling or
structure by fire or explosive,
believing person in structure.
- 178 810.02 (2) (a) 1st,PBL Burglary with assault or battery.
- 179 810.02 (2) (b) 1st,PBL Burglary; armed with explosives or
dangerous weapon.
- 180 810.02 (2) (c) 1st Burglary of a dwelling or structure
causing structural damage or \$1,000 or
more property damage.
- 181 812.014 (2) (a) 2. 1st Property stolen; cargo valued at
\$50,000 or more, grand theft in 1st
degree.
- 182 812.13 (2) (b) 1st Robbery with a weapon.
- 183 812.135 (2) (c) 1st Home-invasion robbery, no firearm,
deadly weapon, or other weapon.

HB 667

2012

184	817.568 (6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
185	825.102 (2)	1st	Aggravated abuse of an elderly person or disabled adult.
186	825.1025 (2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
187	825.103 (2) (a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
188	837.02 (2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
189	837.021 (2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
190	860.121 (2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
191	860.16	1st	Aircraft piracy.

HB 667

2012

192	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
193	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
194	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
195	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
196	893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
197	893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
198	893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
199	893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.

HB 667

2012

200	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
201	893.135 (1) (g) 1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
202	893.135 (1) (h) 1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
203	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
204	893.135 (1) (k) 2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
205	893.1351 (3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
206	895.03 (1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
	895.03 (2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real

HB 667

2012

property.

207

895.03 (3) 1st Conduct or participate in any enterprise through pattern of racketeering activity.

208

896.101 (5) (b) 2nd Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.

209

896.104 (4) (a) 2. 2nd Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.

210

211 (i) LEVEL 9

212

Florida	Felony	
Statute	Degree	Description

213

316.193	1st	DUI manslaughter; failing to render aid or give information.
(3) (c) 3.b.		

214

327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
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215

HB 667

2012

216	409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
217	499.0051 (9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
218	560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
219	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
220	655.50 (10) (b) 3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
221	775.0844	1st	Aggravated white collar crime.
222	782.04 (1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
	782.04 (3)	1st, PBL	Accomplice to murder in connection with arson, sexual battery, robbery,

HB 667

2012

burglary, aggravated fleeing or eluding, and other specified felonies.

223

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

224

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

225

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

226

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

227

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

228

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.

229

HB 667

2012

230	790.161	1st	Attempted capital destructive device offense.
231	790.166 (2)	1st, PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
232	794.011 (2)	1st	Attempted sexual battery; victim less than 12 years of age.
233	794.011 (2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
234	794.011 (4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
235	794.011 (8) (b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
236	794.08 (2)	1st	Female genital mutilation; victim younger than 18 years of age.
	800.04 (5) (b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years

HB 667

2012

or older.

237
 812.13 (2) (a) 1st, PBL Robbery with firearm or other deadly
 weapon.

238
 812.133 (2) (a) 1st, PBL Carjacking; firearm or other deadly
 weapon.

239
 812.135 (2) (b) 1st Home-invasion robbery with weapon.

240
 817.568 (7) 2nd, Fraudulent use of personal
 PBL identification information of an
 individual under the age of 18 by his
 or her parent, legal guardian, or
 person exercising custodial authority.

241
 827.03 (2) 1st Aggravated child abuse.

242
 847.0145 (1) 1st Selling, or otherwise transferring
 custody or control, of a minor.

243
 847.0145 (2) 1st Purchasing, or otherwise obtaining
 custody or control, of a minor.

244
 859.01 1st Poisoning or introducing bacteria,
 radioactive materials, viruses, or
 chemical compounds into food, drink,

HB 667

2012

medicine, or water with intent to kill
or injure another person.

245

893.135 1st Attempted capital trafficking offense.

246

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

247

893.135 1st Trafficking in cocaine, more than 400
(1) (b) 1.c. grams, less than 150 kilograms.

248

893.135 1st Trafficking in illegal drugs, more
(1) (c) 1.c. than 28 grams, less than 30 kilograms.

249

893.135 1st Trafficking in phencyclidine, more
(1) (d) 1.c. than 400 grams.

250

893.135 1st Trafficking in methaqualone, more than
(1) (e) 1.c. 25 kilograms.

251

893.135 1st Trafficking in amphetamine, more than
(1) (f) 1.c. 200 grams.

252

893.135 1st Trafficking in gamma-hydroxybutyric
(1) (h) 1.c. acid (GHB), 10 kilograms or more.

253

893.135 1st Trafficking in 1,4-Butanediol, 10

HB 667

2012

254 (1) (j) 1.c. kilograms or more.

893.135 1st Trafficking in Phenethylamines, 400

255 (1) (k) 2.c. grams or more.

896.101 (5) (c) 1st Money laundering, financial

instruments totaling or exceeding

256 \$100,000.

896.104 (4) (a) 3. 1st Structuring transactions to evade

reporting or registration

requirements, financial transactions

totaling or exceeding \$100,000.

257

258 Section 3. For the purpose of incorporating the amendment

259 made by this act to section 782.04, Florida Statutes, in a

260 reference thereto, section 775.0823, Florida Statutes, is

261 reenacted to read:

262 775.0823 Violent offenses committed against law

263 enforcement officers, correctional officers, state attorneys,

264 assistant state attorneys, justices, or judges.—The Legislature

265 does hereby provide for an increase and certainty of penalty for

266 any person convicted of a violent offense against any law

267 enforcement or correctional officer, as defined in s. 943.10(1),

268 (2), (3), (6), (7), (8), or (9); against any state attorney

269 elected pursuant to s. 27.01 or assistant state attorney

270 appointed under s. 27.181; or against any justice or judge of a

271 court described in Art. V of the State Constitution, which

272 offense arises out of or in the scope of the officer's duty as a
 273 law enforcement or correctional officer, the state attorney's or
 274 assistant state attorney's duty as a prosecutor or investigator,
 275 or the justice's or judge's duty as a judicial officer, as
 276 follows:

277 (1) For murder in the first degree as described in s.
 278 782.04(1), if the death sentence is not imposed, a sentence of
 279 imprisonment for life without eligibility for release.

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

283 (3) For attempted felony murder as described in s.
 284 782.051, a sentence pursuant to s. 775.082, s. 775.083, or s.
 285 775.084.

286 (4) For murder in the second degree as described in s.
 287 782.04(2) and (3), a sentence pursuant to s. 775.082, s.
 288 775.083, or s. 775.084.

289 (5) For attempted murder in the second degree as described
 290 in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s.
 291 775.083, or s. 775.084.

292 (6) For murder in the third degree as described in s.
 293 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s.
 294 775.084.

295 (7) For attempted murder in the third degree as described
 296 in s. 782.04(4), a sentence pursuant to s. 775.082, s. 775.083,
 297 or s. 775.084.

298 (8) For manslaughter as described in s. 782.07 during the
 299 commission of a crime, a sentence pursuant to s. 775.082, s.

HB 667

2012

300 775.083, or s. 775.084.

301 (9) For kidnapping as described in s. 787.01, a sentence
 302 pursuant to s. 775.082, s. 775.083, or s. 775.084.

303 (10) For aggravated battery as described in s. 784.045, a
 304 sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

305 (11) For aggravated assault as described in s. 784.021, a
 306 sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

307
 308 Notwithstanding the provisions of s. 948.01, with respect to any
 309 person who is found to have violated this section, adjudication
 310 of guilt or imposition of sentence shall not be suspended,
 311 deferred, or withheld.

312 Section 4. For the purpose of incorporating the amendment
 313 made by this act to section 782.04, Florida Statutes, in a
 314 reference thereto, section 782.051, Florida Statutes, is
 315 reenacted to read:

316 782.051 Attempted felony murder.—

317 (1) Any person who perpetrates or attempts to perpetrate
 318 any felony enumerated in s. 782.04(3) and who commits, aids, or
 319 abets an intentional act that is not an essential element of the
 320 felony and that could, but does not, cause the death of another
 321 commits a felony of the first degree, punishable by imprisonment
 322 for a term of years not exceeding life, or as provided in s.
 323 775.082, s. 775.083, or s. 775.084, which is an offense ranked
 324 in level 9 of the Criminal Punishment Code. Victim injury points
 325 shall be scored under this subsection.

326 (2) Any person who perpetrates or attempts to perpetrate
 327 any felony other than a felony enumerated in s. 782.04(3) and

HB 667

2012

328 | who commits, aids, or abets an intentional act that is not an
 329 | essential element of the felony and that could, but does not,
 330 | cause the death of another commits a felony of the first degree,
 331 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 332 | which is an offense ranked in level 8 of the Criminal Punishment
 333 | Code. Victim injury points shall be scored under this
 334 | subsection.

335 | (3) When a person is injured during the perpetration of or
 336 | the attempt to perpetrate any felony enumerated in s. 782.04(3)
 337 | by a person other than the person engaged in the perpetration of
 338 | or the attempt to perpetrate such felony, the person
 339 | perpetrating or attempting to perpetrate such felony commits a
 340 | felony of the second degree, punishable as provided in s.
 341 | 775.082, s. 775.083, or s. 775.084, which is an offense ranked
 342 | in level 7 of the Criminal Punishment Code. Victim injury points
 343 | shall be scored under this subsection.

344 | Section 5. For the purpose of incorporating the amendment
 345 | made by this act to section 782.04, Florida Statutes, in a
 346 | reference thereto, section 782.065, Florida Statutes, is
 347 | reenacted to read:

348 | 782.065 Murder; law enforcement officer.—Notwithstanding
 349 | ss. 775.082, 775.0823, 782.04, 782.051, and chapter 921, a
 350 | defendant shall be sentenced to life imprisonment without
 351 | eligibility for release upon findings by the trier of fact that,
 352 | beyond a reasonable doubt:

353 | (1) The defendant committed murder in the first degree in
 354 | violation of s. 782.04(1) and a death sentence was not imposed;
 355 | murder in the second or third degree in violation of s.

356 782.04(2), (3), or (4); attempted murder in the first or second
 357 degree in violation of s. 782.04(1)(a)1. or (2); or attempted
 358 felony murder in violation of s. 782.051; and

359 (2) The victim of any offense described in subsection (1)
 360 was a law enforcement officer, part-time law enforcement
 361 officer, or auxiliary law enforcement officer, as those terms
 362 are defined in s. 943.10, engaged in the lawful performance of a
 363 legal duty.

364 Section 6. For the purpose of incorporating the amendment
 365 made by this act to section 782.04, Florida Statutes, in a
 366 reference thereto, subsection (3) of section 947.146, Florida
 367 Statutes, is reenacted to read:

368 947.146 Control Release Authority.—

369 (3) Within 120 days prior to the date the state
 370 correctional system is projected pursuant to s. 216.136 to
 371 exceed 99 percent of total capacity, the authority shall
 372 determine eligibility for and establish a control release date
 373 for an appropriate number of parole ineligible inmates committed
 374 to the department and incarcerated within the state who have
 375 been determined by the authority to be eligible for
 376 discretionary early release pursuant to this section. In
 377 establishing control release dates, it is the intent of the
 378 Legislature that the authority prioritize consideration of
 379 eligible inmates closest to their tentative release date. The
 380 authority shall rely upon commitment data on the offender
 381 information system maintained by the department to initially
 382 identify inmates who are to be reviewed for control release
 383 consideration. The authority may use a method of objective risk

HB 667

2012

384 assessment in determining if an eligible inmate should be
385 released. Such assessment shall be a part of the department's
386 management information system. However, the authority shall have
387 sole responsibility for determining control release eligibility,
388 establishing a control release date, and effectuating the
389 release of a sufficient number of inmates to maintain the inmate
390 population between 99 percent and 100 percent of total capacity.
391 Inmates who are ineligible for control release are inmates who
392 are parole eligible or inmates who:

393 (a) Are serving a sentence that includes a mandatory
394 minimum provision for a capital offense or drug trafficking
395 offense and have not served the number of days equal to the
396 mandatory minimum term less any jail-time credit awarded by the
397 court;

398 (b) Are serving the mandatory minimum portion of a
399 sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);

400 (c) Are convicted, or have been previously convicted, of
401 committing or attempting to commit sexual battery, incest, or
402 any of the following lewd or indecent assaults or acts:
403 masturbating in public; exposing the sexual organs in a
404 perverted manner; or nonconsensual handling or fondling of the
405 sexual organs of another person;

406 (d) Are convicted, or have been previously convicted, of
407 committing or attempting to commit assault, aggravated assault,
408 battery, or aggravated battery, and a sex act was attempted or
409 completed during commission of such offense;

410 (e) Are convicted, or have been previously convicted, of
411 committing or attempting to commit kidnapping, burglary, or

412 murder, and the offense was committed with the intent to commit
 413 sexual battery or a sex act was attempted or completed during
 414 commission of the offense;

415 (f) Are convicted, or have been previously convicted, of
 416 committing or attempting to commit false imprisonment upon a
 417 child under the age of 13 and, in the course of committing the
 418 offense, the inmate committed aggravated child abuse, sexual
 419 battery against the child, or a lewd or lascivious offense
 420 committed upon or in the presence of a person less than 16 years
 421 of age;

422 (g) Are sentenced, have previously been sentenced, or have
 423 been sentenced at any time under s. 775.084, or have been
 424 sentenced at any time in another jurisdiction as a habitual
 425 offender;

426 (h) Are convicted, or have been previously convicted, of
 427 committing or attempting to commit assault, aggravated assault,
 428 battery, aggravated battery, kidnapping, manslaughter, or murder
 429 against an officer as defined in s. 943.10(1), (2), (3), (6),
 430 (7), (8), or (9); against a state attorney or assistant state
 431 attorney; or against a justice or judge of a court described in
 432 Art. V of the State Constitution; or against an officer, judge,
 433 or state attorney employed in a comparable position by any other
 434 jurisdiction; or

435 (i) Are convicted, or have been previously convicted, of
 436 committing or attempting to commit murder in the first, second,
 437 or third degree under s. 782.04(1), (2), (3), or (4), or have
 438 ever been convicted of any degree of murder or attempted murder
 439 in another jurisdiction;

440 (j) Are convicted, or have been previously convicted, of
 441 DUI manslaughter under s. 316.193(3)(c)3., and are sentenced, or
 442 have been sentenced at any time, as a habitual offender for such
 443 offense, or have been sentenced at any time in another
 444 jurisdiction as a habitual offender for such offense;

445 (k)1. Are serving a sentence for an offense committed on
 446 or after January 1, 1994, for a violation of the Law Enforcement
 447 Protection Act under s. 775.0823(2), (3), (4), (5), or (6), and
 448 the subtotal of the offender's sentence points is multiplied
 449 pursuant to former s. 921.0014 or s. 921.0024;

450 2. Are serving a sentence for an offense committed on or
 451 after October 1, 1995, for a violation of the Law Enforcement
 452 Protection Act under s. 775.0823(2), (3), (4), (5), (6), (7),
 453 (8), or (9), and the subtotal of the offender's sentence points
 454 is multiplied pursuant to former s. 921.0014 or s. 921.0024;

455 (l) Are serving a sentence for an offense committed on or
 456 after January 1, 1994, for possession of a firearm,
 457 semiautomatic firearm, or machine gun in which additional points
 458 are added to the subtotal of the offender's sentence points
 459 pursuant to former s. 921.0014 or s. 921.0024; or

460 (m) Are convicted, or have been previously convicted, of
 461 committing or attempting to commit manslaughter, kidnapping,
 462 robbery, carjacking, home-invasion robbery, or a burglary under
 463 s. 810.02(2).

464
 465 In making control release eligibility determinations under this
 466 subsection, the authority may rely on any document leading to or
 467 generated during the course of the criminal proceedings,

HB 667

2012

468 | including, but not limited to, any presentence or postsentence
469 | investigation or any information contained in arrest reports
470 | relating to circumstances of the offense.

471 | Section 7. This act shall take effect October 1, 2012.