

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

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

22  
23           Section 1. This act may be cited as the "Deputy John C.  
24 Mecklenburg Act."

25           Section 2. Section 782.04, Florida Statutes, is amended to  
26   read:

27           782.04   Murder.—

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

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- 29 | 1. When perpetrated from a premeditated design to effect  
 30 | the death of the person killed or any human being;  
 31 | 2. When committed by a person engaged in the perpetration  
 32 | of, or in the attempt to perpetrate, any:  
 33 | a. Trafficking offense prohibited by s. 893.135(1),  
 34 | b. Arson,  
 35 | c. Sexual battery,  
 36 | d. Robbery,  
 37 | e. Burglary,  
 38 | f. Kidnapping,  
 39 | g. Escape,  
 40 | h. Aggravated child abuse,  
 41 | i. Aggravated abuse of an elderly person or disabled  
 42 | adult,  
 43 | j. Aircraft piracy,  
 44 | k. Unlawful throwing, placing, or discharging of a  
 45 | destructive device or bomb,  
 46 | l. Carjacking,  
 47 | m. Home-invasion robbery,  
 48 | n. Aggravated stalking,  
 49 | o. Murder of another human being,  
 50 | p. Resisting an officer with violence to his or her  
 51 | person,  
 52 | q. Aggravated fleeing or eluding with serious bodily  
 53 | injury or death,  
 54 | ~~r.g.~~ Felony that is an act of terrorism or is in  
 55 | furtherance of an act of terrorism; or  
 56 | 3. Which resulted from the unlawful distribution of any

57 substance controlled under s. 893.03(1), cocaine as described in  
 58 s. 893.03(2)(a)4., opium or any synthetic or natural salt,  
 59 compound, derivative, or preparation of opium, or methadone by a  
 60 person 18 years of age or older, when such drug is proven to be  
 61 the proximate cause of the death of the user,

62  
 63 is murder in the first degree and constitutes a capital felony,  
 64 punishable as provided in s. 775.082.

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

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

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

- 78 (a) Trafficking offense prohibited by s. 893.135(1),
- 79 (b) Arson,
- 80 (c) Sexual battery,
- 81 (d) Robbery,
- 82 (e) Burglary,
- 83 (f) Kidnapping,
- 84 (g) Escape,

85           (h) Aggravated child abuse,  
 86           (i) Aggravated abuse of an elderly person or disabled  
 87 adult,  
 88           (j) Aircraft piracy,  
 89           (k) Unlawful throwing, placing, or discharging of a  
 90 destructive device or bomb,  
 91           (l) Carjacking,  
 92           (m) Home-invasion robbery,  
 93           (n) Aggravated stalking,  
 94           (o) Murder of another human being,  
 95           

(p) Aggravated fleeing or eluding with serious bodily  
 96 injury or death,

 97           ~~(q)-(p)~~ Resisting an officer with violence to his or her  
 98 person, or  
 99           ~~(r)-(q)~~ Felony that is an act of terrorism or is in  
 100 furtherance of an act of terrorism,  
 101  
 102 by a person other than the person engaged in the perpetration of  
 103 or in the attempt to perpetrate such felony, the person  
 104 perpetrating or attempting to perpetrate such felony commits ~~is~~  
 105 ~~guilty of~~ murder in the second degree, which constitutes a  
 106 felony of the first degree, punishable by imprisonment for a  
 107 term of years not exceeding life or as provided in s. 775.082,  
 108 s. 775.083, or s. 775.084.

 109           (4) The unlawful killing of a human being, when  
 110 perpetrated without any design to effect death, by a person  
 111 engaged in the perpetration of, or in the attempt to perpetrate,  
 112 any felony other than any:

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- 113 (a) Trafficking offense prohibited by s. 893.135(1),
- 114 (b) Arson,
- 115 (c) Sexual battery,
- 116 (d) Robbery,
- 117 (e) Burglary,
- 118 (f) Kidnapping,
- 119 (g) Escape,
- 120 (h) Aggravated child abuse,
- 121 (i) Aggravated abuse of an elderly person or disabled
- 122 adult,
- 123 (j) Aircraft piracy,
- 124 (k) Unlawful throwing, placing, or discharging of a
- 125 destructive device or bomb,
- 126 (l) Unlawful distribution of any substance controlled
- 127 under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4.,
- 128 or opium or any synthetic or natural salt, compound, derivative,
- 129 or preparation of opium by a person 18 years of age or older,
- 130 when such drug is proven to be the proximate cause of the death
- 131 of the user,
- 132 (m) Carjacking,
- 133 (n) Home-invasion robbery,
- 134 (o) Aggravated stalking,
- 135 (p) Murder of another human being,
- 136 (q) Aggravated fleeing or eluding with serious bodily
- 137 injury or death,
- 138 (r)~~(q)~~ Resisting an officer with violence to his or her
- 139 person, or
- 140 (s)~~(r)~~ Felony that is an act of terrorism or is in

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141 furtherance of an act of terrorism,

142

143 is murder in the third degree and constitutes a felony of the  
 144 second degree, punishable as provided in s. 775.082, s. 775.083,  
 145 or s. 775.084.

146 (5) As used in this section, the term "terrorism" means an  
 147 activity that:

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

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

152 (b) Is intended to:

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

154 2. Influence the policy of a government by intimidation or  
 155 coercion; or

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

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

160 921.0022 Criminal Punishment Code; offense severity  
 161 ranking chart.—

162 (3) OFFENSE SEVERITY RANKING CHART

163 (h) LEVEL 8

164

Florida	Felony	
Statute	Degree	Description

165

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166	316.193 (3) (c) 3.a.	2nd	DUI manslaughter.
167	316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
168	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
169	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
170	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
171	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.
172	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.
	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding

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\$20,000, but less than \$100,000 by  
financial institutions.

173

777.03(2)(a) 1st Accessory after the fact, capital  
felony.

174

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,  
aggravated fleeing or eluding with  
serious bodily injury or death,  
aircraft piracy, or unlawfully  
discharging bomb.

175

782.051(2) 1st Attempted felony murder while  
perpetrating or attempting to  
perpetrate a felony not enumerated in  
s. 782.04(3).

176

782.071(1)(b) 1st Committing vehicular homicide and  
failing to render aid or give  
information.

177

782.072(2) 1st Committing vessel homicide and failing  
to render aid or give information.

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179	790.161 (3)	1st	Discharging a destructive device which results in bodily harm or property damage.
180	794.011 (5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
181	794.08 (3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
182	800.04 (4)	2nd	Lewd or lascivious battery.
183	806.01 (1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
184	810.02 (2) (a)	1st, PBL	Burglary with assault or battery.
185	810.02 (2) (b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.
186	810.02 (2) (c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.

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187	812.014 (2) (a) 2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
188	812.13 (2) (b)	1st	Robbery with a weapon.
189	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
190	817.568 (6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
191	825.102 (2)	1st	Aggravated abuse of an elderly person or disabled adult.
192	825.1025 (2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
193	825.103 (2) (a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
194	837.02 (2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.

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195	837.021 (2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
196	860.121 (2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
197	860.16	1st	Aircraft piracy.
198	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).
199	893.13 (2) (b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
200	893.13 (6) (c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
201	893.135 (1) (a) 2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
202	893.135 (1) (b) 1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.

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203	893.135 (1) (c) 1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
204	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
205	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
206	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
207	893.135 (1) (g) 1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
208	893.135 (1) (h) 1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
209	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
210	893.135 (1) (k) 2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
	893.1351 (3)	1st	Possession of a place used to

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manufacture controlled substance when  
minor is present or resides there.

211

895.03(1) 1st Use or invest proceeds derived from  
pattern of racketeering activity.

212

895.03(2) 1st Acquire or maintain through  
racketeering activity any interest in  
or control of any enterprise or real  
property.

213

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

214

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

215

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.

216

217 (i) LEVEL 9

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	Florida Statute	Felony Degree	Description
219	316.193 (3) (c) 3.b.	1st	DUI manslaughter; failing to render aid or give information.
220	327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
221	409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
222	499.0051 (9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
223	560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
224	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
225	655.50 (10) (b) 3.	1st	Failure to report financial transactions totaling or exceeding

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\$100,000 by financial institution.

226

775.0844 1st Aggravated white collar crime.

227

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

228

782.04(3) 1st,PBL Accomplice to murder in connection  
with arson, sexual battery, robbery,  
burglary, aggravated fleeing or  
eluding with serious bodily injury or  
death, and other specified felonies.

229

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

230

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

231

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

232

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

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234

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

235

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.

236

790.161 1st Attempted capital destructive device offense.

237

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

238

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

239

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

240

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

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241	794.011 (8) (b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
242	794.08 (2)	1st	Female genital mutilation; victim younger than 18 years of age.
243	800.04 (5) (b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
244	812.13 (2) (a)	1st, PBL	Robbery with firearm or other deadly weapon.
245	812.133 (2) (a)	1st, PBL	Carjacking; firearm or other deadly weapon.
246	812.135 (2) (b)	1st	Home-invasion robbery with weapon.
247	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.
248	827.03 (2)	1st	Aggravated child abuse.

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249	847.0145 (1)	1st	Selling, or otherwise transferring custody or control, of a minor.
250	847.0145 (2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
251	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.
252	893.135	1st	Attempted capital trafficking offense.
253	893.135 (1) (a) 3.	1st	Trafficking in cannabis, more than 10,000 lbs.
254	893.135 (1) (b) 1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
255	893.135 (1) (c) 1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
256	893.135 (1) (d) 1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
	893.135	1st	Trafficking in methaqualone, more than

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257 (1) (e) 1.c. 25 kilograms.

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

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

893.135 1st Trafficking in 1,4-Butanediol, 10  
 260 (1) (j) 1.c. kilograms or more.

893.135 1st Trafficking in Phenethylamines, 400  
 261 (1) (k) 2.c. grams or more.

896.101 (5) (c) 1st Money laundering, financial  
 262 instruments totaling or exceeding  
 \$100,000.

896.104 (4) (a) 3. 1st Structuring transactions to evade  
 263 reporting or registration  
 requirements, financial transactions  
 totaling or exceeding \$100,000.

264 Section 4. For the purpose of incorporating the amendment  
 265 made by this act to section 782.04, Florida Statutes, in  
 266 references thereto, section 775.0823, Florida Statutes, is  
 267 reenacted to read:

268 775.0823 Violent offenses committed against law

269 enforcement officers, correctional officers, state attorneys,  
 270 assistant state attorneys, justices, or judges.—The Legislature  
 271 does hereby provide for an increase and certainty of penalty for  
 272 any person convicted of a violent offense against any law  
 273 enforcement or correctional officer, as defined in s. 943.10(1),  
 274 (2), (3), (6), (7), (8), or (9); against any state attorney  
 275 elected pursuant to s. 27.01 or assistant state attorney  
 276 appointed under s. 27.181; or against any justice or judge of a  
 277 court described in Art. V of the State Constitution, which  
 278 offense arises out of or in the scope of the officer's duty as a  
 279 law enforcement or correctional officer, the state attorney's or  
 280 assistant state attorney's duty as a prosecutor or investigator,  
 281 or the justice's or judge's duty as a judicial officer, as  
 282 follows:

283 (1) For murder in the first degree as described in s.  
 284 782.04(1), if the death sentence is not imposed, a sentence of  
 285 imprisonment for life without eligibility for release.

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

289 (3) For attempted felony murder as described in s.  
 290 782.051, a sentence pursuant to s. 775.082, s. 775.083, or s.  
 291 775.084.

292 (4) For murder in the second degree as described in s.  
 293 782.04(2) and (3), a sentence pursuant to s. 775.082, s.  
 294 775.083, or s. 775.084.

295 (5) For attempted murder in the second degree as described  
 296 in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s.

297 775.083, or s. 775.084.

298 (6) For murder in the third degree as described in s.  
299 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s.  
300 775.084.

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

304 (8) For manslaughter as described in s. 782.07 during the  
305 commission of a crime, a sentence pursuant to s. 775.082, s.  
306 775.083, or s. 775.084.

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

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

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

313  
314 Notwithstanding the provisions of s. 948.01, with respect to any  
315 person who is found to have violated this section, adjudication  
316 of guilt or imposition of sentence shall not be suspended,  
317 deferred, or withheld.

318 Section 5. For the purpose of incorporating the amendment  
319 made by this act to section 782.04, Florida Statutes, in  
320 references thereto, section 782.051, Florida Statutes, is  
321 reenacted to read:

322 782.051 Attempted felony murder.—

323 (1) Any person who perpetrates or attempts to perpetrate  
324 any felony enumerated in s. 782.04(3) and who commits, aids, or

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325 abets an intentional act that is not an essential element of the  
326 felony and that could, but does not, cause the death of another  
327 commits a felony of the first degree, punishable by imprisonment  
328 for a term of years not exceeding life, or as provided in s.  
329 775.082, s. 775.083, or s. 775.084, which is an offense ranked  
330 in level 9 of the Criminal Punishment Code. Victim injury points  
331 shall be scored under this subsection.

332 (2) Any person who perpetrates or attempts to perpetrate  
333 any felony other than a felony enumerated in s. 782.04(3) and  
334 who commits, aids, or abets an intentional act that is not an  
335 essential element of the felony and that could, but does not,  
336 cause the death of another commits a felony of the first degree,  
337 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
338 which is an offense ranked in level 8 of the Criminal Punishment  
339 Code. Victim injury points shall be scored under this  
340 subsection.

341 (3) When a person is injured during the perpetration of or  
342 the attempt to perpetrate any felony enumerated in s. 782.04(3)  
343 by a person other than the person engaged in the perpetration of  
344 or the attempt to perpetrate such felony, the person  
345 perpetrating or attempting to perpetrate such felony commits a  
346 felony of the second degree, punishable as provided in s.  
347 775.082, s. 775.083, or s. 775.084, which is an offense ranked  
348 in level 7 of the Criminal Punishment Code. Victim injury points  
349 shall be scored under this subsection.

350 Section 6. For the purpose of incorporating the amendment  
351 made by this act to section 782.04, Florida Statutes, in  
352 references thereto, section 782.065, Florida Statutes, is

353 reenacted to read:

354 782.065 Murder; law enforcement officer.—Notwithstanding  
 355 ss. 775.082, 775.0823, 782.04, 782.051, and chapter 921, a  
 356 defendant shall be sentenced to life imprisonment without  
 357 eligibility for release upon findings by the trier of fact that,  
 358 beyond a reasonable doubt:

359 (1) The defendant committed murder in the first degree in  
 360 violation of s. 782.04(1) and a death sentence was not imposed;  
 361 murder in the second or third degree in violation of s.  
 362 782.04(2), (3), or (4); attempted murder in the first or second  
 363 degree in violation of s. 782.04(1)(a)1. or (2); or attempted  
 364 felony murder in violation of s. 782.051; and

365 (2) The victim of any offense described in subsection (1)  
 366 was a law enforcement officer, part-time law enforcement  
 367 officer, or auxiliary law enforcement officer, as those terms  
 368 are defined in s. 943.10, engaged in the lawful performance of a  
 369 legal duty.

370 Section 7. For the purpose of incorporating the amendment  
 371 made by this act to section 782.04, Florida Statutes, in a  
 372 reference thereto, subsection (3) of section 947.146, Florida  
 373 Statutes, is reenacted to read:

374 947.146 Control Release Authority.—

375 (3) Within 120 days prior to the date the state  
 376 correctional system is projected pursuant to s. 216.136 to  
 377 exceed 99 percent of total capacity, the authority shall  
 378 determine eligibility for and establish a control release date  
 379 for an appropriate number of parole ineligible inmates committed  
 380 to the department and incarcerated within the state who have

381 | been determined by the authority to be eligible for  
382 | discretionary early release pursuant to this section. In  
383 | establishing control release dates, it is the intent of the  
384 | Legislature that the authority prioritize consideration of  
385 | eligible inmates closest to their tentative release date. The  
386 | authority shall rely upon commitment data on the offender  
387 | information system maintained by the department to initially  
388 | identify inmates who are to be reviewed for control release  
389 | consideration. The authority may use a method of objective risk  
390 | assessment in determining if an eligible inmate should be  
391 | released. Such assessment shall be a part of the department's  
392 | management information system. However, the authority shall have  
393 | sole responsibility for determining control release eligibility,  
394 | establishing a control release date, and effectuating the  
395 | release of a sufficient number of inmates to maintain the inmate  
396 | population between 99 percent and 100 percent of total capacity.  
397 | Inmates who are ineligible for control release are inmates who  
398 | are parole eligible or inmates who:

399 |       (a) Are serving a sentence that includes a mandatory  
400 | minimum provision for a capital offense or drug trafficking  
401 | offense and have not served the number of days equal to the  
402 | mandatory minimum term less any jail-time credit awarded by the  
403 | court;

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

406 |       (c) Are convicted, or have been previously convicted, of  
407 | committing or attempting to commit sexual battery, incest, or  
408 | any of the following lewd or indecent assaults or acts:

409 | masturbating in public; exposing the sexual organs in a  
410 | perverted manner; or nonconsensual handling or fondling of the  
411 | sexual organs of another person;

412 |       (d) Are convicted, or have been previously convicted, of  
413 | committing or attempting to commit assault, aggravated assault,  
414 | battery, or aggravated battery, and a sex act was attempted or  
415 | completed during commission of such offense;

416 |       (e) Are convicted, or have been previously convicted, of  
417 | committing or attempting to commit kidnapping, burglary, or  
418 | murder, and the offense was committed with the intent to commit  
419 | sexual battery or a sex act was attempted or completed during  
420 | commission of the offense;

421 |       (f) Are convicted, or have been previously convicted, of  
422 | committing or attempting to commit false imprisonment upon a  
423 | child under the age of 13 and, in the course of committing the  
424 | offense, the inmate committed aggravated child abuse, sexual  
425 | battery against the child, or a lewd or lascivious offense  
426 | committed upon or in the presence of a person less than 16 years  
427 | of age;

428 |       (g) Are sentenced, have previously been sentenced, or have  
429 | been sentenced at any time under s. 775.084, or have been  
430 | sentenced at any time in another jurisdiction as a habitual  
431 | offender;

432 |       (h) Are convicted, or have been previously convicted, of  
433 | committing or attempting to commit assault, aggravated assault,  
434 | battery, aggravated battery, kidnapping, manslaughter, or murder  
435 | against an officer as defined in s. 943.10(1), (2), (3), (6),  
436 | (7), (8), or (9); against a state attorney or assistant state

437 attorney; or against a justice or judge of a court described in  
 438 Art. V of the State Constitution; or against an officer, judge,  
 439 or state attorney employed in a comparable position by any other  
 440 jurisdiction; or

441 (i) Are convicted, or have been previously convicted, of  
 442 committing or attempting to commit murder in the first, second,  
 443 or third degree under s. 782.04(1), (2), (3), or (4), or have  
 444 ever been convicted of any degree of murder or attempted murder  
 445 in another jurisdiction;

446 (j) Are convicted, or have been previously convicted, of  
 447 DUI manslaughter under s. 316.193(3)(c)3., and are sentenced, or  
 448 have been sentenced at any time, as a habitual offender for such  
 449 offense, or have been sentenced at any time in another  
 450 jurisdiction as a habitual offender for such offense;

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

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

461 (l) Are serving a sentence for an offense committed on or  
 462 after January 1, 1994, for possession of a firearm,  
 463 semiautomatic firearm, or machine gun in which additional points  
 464 are added to the subtotal of the offender's sentence points

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465 pursuant to former s. 921.0014 or s. 921.0024; or

466 (m) Are convicted, or have been previously convicted, of  
467 committing or attempting to commit manslaughter, kidnapping,  
468 robbery, carjacking, home-invasion robbery, or a burglary under  
469 s. 810.02(2).

470

471 In making control release eligibility determinations under this  
472 subsection, the authority may rely on any document leading to or  
473 generated during the course of the criminal proceedings,  
474 including, but not limited to, any presentence or postsentence  
475 investigation or any information contained in arrest reports  
476 relating to circumstances of the offense.

477 Section 8. This act shall take effect October 1, 2012.