

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. 782.065, F.S.; requiring  
10          life imprisonment for defendants convicted of  
11          specified offenses where the victim is a correctional  
12          or correctional probation officer or a related type of  
13          officer; amending s. 921.0022, F.S.; revising  
14          provisions of the offense severity ranking chart of  
15          the Criminal Punishment Code to conform to changes  
16          made by the act; reenacting ss. 775.0823, 782.051,  
17          782.065, and 947.146(3), F.S., relating to violent  
18          offenses committed against law enforcement officers  
19          and others, attempted felony murder, murder of a law  
20          enforcement officer, and the Control Release  
21          Authority, respectively, to incorporate the amendment  
22          made to s. 782.04, F.S., in references thereto;  
23          providing an effective date.

24  
25   Be It Enacted by the Legislature of the State of Florida:

26  
27           Section 1. This act may be cited as the "Deputy John C.  
28           Mecklenburg Act."

29 Section 2. Section 782.04, Florida Statutes, is amended to  
 30 read:

31 782.04 Murder.—

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

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

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

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

38 b. Arson,

39 c. Sexual battery,

40 d. Robbery,

41 e. Burglary,

42 f. Kidnapping,

43 g. Escape,

44 h. Aggravated child abuse,

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

47 j. Aircraft piracy,

48 k. Unlawful throwing, placing, or discharging of a  
 49 destructive device or bomb,

50 l. Carjacking,

51 m. Home-invasion robbery,

52 n. Aggravated stalking,

53 o. Murder of another human being,

54 p. Resisting an officer with violence to his or her  
 55 person,

56 q. Aggravated fleeing or eluding with serious bodily

57 | injury or death,

58 | ~~r.e.~~ Felony that is an act of terrorism or is in  
59 | furtherance of an act of terrorism; or

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

66 |  
67 | is murder in the first degree and constitutes a capital felony,  
68 | punishable as provided in s. 775.082.

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

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

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

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

83 | (b) Arson,

84 | (c) Sexual battery,

85 (d) Robbery,  
 86 (e) Burglary,  
 87 (f) Kidnapping,  
 88 (g) Escape,  
 89 (h) Aggravated child abuse,  
 90 (i) Aggravated abuse of an elderly person or disabled  
 91 adult,  
 92 (j) Aircraft piracy,  
 93 (k) Unlawful throwing, placing, or discharging of a  
 94 destructive device or bomb,  
 95 (l) Carjacking,  
 96 (m) Home-invasion robbery,  
 97 (n) Aggravated stalking,  
 98 (o) Murder of another human being,  
 99 (p) Aggravated fleeing or eluding with serious bodily  
 100 injury or death,  
 101 (q)~~(p)~~ Resisting an officer with violence to his or her  
 102 person, or  
 103 (r)~~(q)~~ Felony that is an act of terrorism or is in  
 104 furtherance of an act of terrorism,  
 105  
 106 by a person other than the person engaged in the perpetration of  
 107 or in the attempt to perpetrate such felony, the person  
 108 perpetrating or attempting to perpetrate such felony commits ~~is~~  
 109 ~~guilty of~~ murder in the second degree, which constitutes a  
 110 felony of the first degree, punishable by imprisonment for a  
 111 term of years not exceeding life or as provided in s. 775.082,  
 112 s. 775.083, or s. 775.084.

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

- 117 (a) Trafficking offense prohibited by s. 893.135(1),
- 118 (b) Arson,
- 119 (c) Sexual battery,
- 120 (d) Robbery,
- 121 (e) Burglary,
- 122 (f) Kidnapping,
- 123 (g) Escape,
- 124 (h) Aggravated child abuse,
- 125 (i) Aggravated abuse of an elderly person or disabled  
 126 adult,

- 127 (j) Aircraft piracy,
- 128 (k) Unlawful throwing, placing, or discharging of a  
 129 destructive device or bomb,

130 (l) Unlawful distribution of any substance controlled  
 131 under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4.,  
 132 or opium or any synthetic or natural salt, compound, derivative,  
 133 or preparation of opium by a person 18 years of age or older,  
 134 when such drug is proven to be the proximate cause of the death  
 135 of the user,

- 136 (m) Carjacking,
- 137 (n) Home-invasion robbery,
- 138 (o) Aggravated stalking,
- 139 (p) Murder of another human being,
- 140 (q) Aggravated fleeing or eluding with serious bodily

141 injury or death,

142 (r)~~(q)~~ Resisting an officer with violence to his or her  
 143 person, or

144 (s)~~(r)~~ Felony that is an act of terrorism or is in  
 145 furtherance of an act of terrorism,

146  
 147 is murder in the third degree and constitutes a felony of the  
 148 second degree, punishable as provided in s. 775.082, s. 775.083,  
 149 or s. 775.084.

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

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

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

156 (b) Is intended to:

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

158 2. Influence the policy of a government by intimidation or  
 159 coercion; or

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

162 Section 3. Section 782.065, Florida Statutes, is amended  
 163 to read:

164 782.065 Murder; law enforcement officer, correctional  
 165 officer, correctional probation officer.—Notwithstanding ss.

166 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant  
 167 shall be sentenced to life imprisonment without eligibility for  
 168 release upon findings by the trier of fact that, beyond a

169 reasonable doubt:

170 (1) The defendant committed murder in the first degree in  
 171 violation of s. 782.04(1) and a death sentence was not imposed;  
 172 murder in the second or third degree in violation of s.  
 173 782.04(2), (3), or (4); attempted murder in the first or second  
 174 degree in violation of s. 782.04(1)(a)1. or (2); or attempted  
 175 felony murder in violation of s. 782.051; and

176 (2) The victim of any offense described in subsection (1)  
 177 was a law enforcement officer, part-time law enforcement  
 178 officer, ~~or~~ auxiliary law enforcement officer, correctional  
 179 officer, part-time correctional officer, auxiliary correctional  
 180 officer, correctional probation officer, part-time correctional  
 181 probation officer, or auxiliary correctional probation officer,  
 182 as those terms are defined in s. 943.10, engaged in the lawful  
 183 performance of a legal duty.

184 Section 4. Paragraphs (h) and (i) of subsection (3) of  
 185 section 921.0022, Florida Statutes, are amended to read:

186 921.0022 Criminal Punishment Code; offense severity  
 187 ranking chart.—

188 (3) OFFENSE SEVERITY RANKING CHART

189 (h) LEVEL 8

190

Florida Statute	Felony Degree	Description
316.193	2nd	DUI manslaughter.

191

(3) (c) 3.a.

192

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193	316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
194	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
195	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
196	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
197	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.
198	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.
199	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.



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200	777.03 (2) (a)	1st	Accessory after the fact, capital felony.
201	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 with serious bodily injury or death,</u> aircraft piracy, or unlawfully discharging bomb.
202	782.051 (2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
203	782.071 (1) (b)	1st	Committing vehicular homicide and failing to render aid or give information.
204	782.072 (2)	1st	Committing vessel homicide and failing to render aid or give information.
205	790.161 (3)	1st	Discharging a destructive device which results in bodily harm or property damage.

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794.011 (5) 2nd Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.

207

794.08 (3) 2nd Female genital mutilation, removal of a victim younger than 18 years of age from this state.

208

800.04 (4) 2nd Lewd or lascivious battery.

209

806.01 (1) 1st Maliciously damage dwelling or structure by fire or explosive, believing person in structure.

210

810.02 (2) (a) 1st, PBL Burglary with assault or battery.

211

810.02 (2) (b) 1st, PBL Burglary; armed with explosives or dangerous weapon.

212

810.02 (2) (c) 1st Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.

213

812.014 (2) (a) 2. 1st Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.

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214	812.13 (2) (b)	1st	Robbery with a weapon.
215	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
216	817.568 (6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
217	825.102 (2)	1st	Aggravated abuse of an elderly person or disabled adult.
218	825.1025 (2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
219	825.103 (2) (a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
220	837.02 (2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
221	837.021 (2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.

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222	860.121 (2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
223	860.16	1st	Aircraft piracy.
224	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).
225	893.13 (2) (b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03 (1) (a) or (b).
226	893.13 (6) (c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03 (1) (a) or (b).
227	893.135 (1) (a) 2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
228	893.135 (1) (b) 1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
229	893.135 (1) (c) 1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.

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230	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
231	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
232	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
233	893.135 (1) (g) 1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
234	893.135 (1) (h) 1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
235	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
236	893.135 (1) (k) 2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
237	893.1351 (3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.

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238	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
239	895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
240	895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
241	896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
242	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.
243	(i)	LEVEL 9	
244	Florida	Felony	
245	Statute	Degree	Description

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246	316.193 (3) (c) 3.b.	1st	DUI manslaughter; failing to render aid or give information.
247	327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
248	409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
249	499.0051 (9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
250	560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
251	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
252	655.50 (10) (b) 3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
253	775.0844	1st	Aggravated white collar crime.

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- 254
782.04 (1)
1st
Attempt, conspire, or solicit to  
commit premeditated murder.
- 255
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.
- 256
782.051 (1)
1st
Attempted felony murder while  
perpetrating or attempting to  
perpetrate a felony enumerated in s.  
782.04 (3).
- 257
782.07 (2)
1st
Aggravated manslaughter of an elderly  
person or disabled adult.
- 258
787.01 (1) (a) 1.
1st, PBL
Kidnapping; hold for ransom or reward  
or as a shield or hostage.
- 259
787.01 (1) (a) 2.
1st, PBL
Kidnapping with intent to commit or  
facilitate commission of any felony.
- 260
787.01 (1) (a) 4.
1st, PBL
Kidnapping with intent to interfere  
with performance of any governmental  
or political function.



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261	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.
262	790.161	1st	Attempted capital destructive device offense.
263	790.166 (2)	1st, PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
264	794.011 (2)	1st	Attempted sexual battery; victim less than 12 years of age.
265	794.011 (2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
266	794.011 (4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
	794.011 (8) (b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial

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authority.

267

794.08 (2) 1st Female genital mutilation; victim younger than 18 years of age.

268

800.04 (5) (b) Life Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.

269

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

270

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

271

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

272

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.

273

827.03 (2) 1st Aggravated child abuse.

274

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

275

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276	847.0145 (2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
277	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.
278	893.135	1st	Attempted capital trafficking offense.
279	893.135 (1) (a) 3.	1st	Trafficking in cannabis, more than 10,000 lbs.
280	893.135 (1) (b) 1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
281	893.135 (1) (c) 1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
282	893.135 (1) (d) 1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
283	893.135 (1) (e) 1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
	893.135	1st	Trafficking in amphetamine, more than

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284 (1) (f) 1.c. 200 grams.

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

285 893.135 1st Trafficking in 1,4-Butanediol, 10  
 (1) (j) 1.c. kilograms or more.

286 893.135 1st Trafficking in Phenethylamines, 400  
 (1) (k) 2.c. grams or more.

287 896.101 (5) (c) 1st Money laundering, financial  
 instruments totaling or exceeding  
 \$100,000.

288 896.104 (4) (a) 3. 1st Structuring transactions to evade  
 reporting or registration  
 requirements, financial transactions  
 totaling or exceeding \$100,000.

289

290 Section 5. For the purpose of incorporating the amendment  
 291 made by this act to section 782.04, Florida Statutes, in  
 292 references thereto, section 775.0823, Florida Statutes, is  
 293 reenacted to read:

294 775.0823 Violent offenses committed against law  
 295 enforcement officers, correctional officers, state attorneys,  
 296 assistant state attorneys, justices, or judges.—The Legislature  
 297 does hereby provide for an increase and certainty of penalty for

298 any person convicted of a violent offense against any law  
299 enforcement or correctional officer, as defined in s. 943.10(1),  
300 (2), (3), (6), (7), (8), or (9); against any state attorney  
301 elected pursuant to s. 27.01 or assistant state attorney  
302 appointed under s. 27.181; or against any justice or judge of a  
303 court described in Art. V of the State Constitution, which  
304 offense arises out of or in the scope of the officer's duty as a  
305 law enforcement or correctional officer, the state attorney's or  
306 assistant state attorney's duty as a prosecutor or investigator,  
307 or the justice's or judge's duty as a judicial officer, as  
308 follows:

309 (1) For murder in the first degree as described in s.  
310 782.04(1), if the death sentence is not imposed, a sentence of  
311 imprisonment for life without eligibility for release.

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

315 (3) For attempted felony murder as described in s.  
316 782.051, a sentence pursuant to s. 775.082, s. 775.083, or s.  
317 775.084.

318 (4) For murder in the second degree as described in s.  
319 782.04(2) and (3), a sentence pursuant to s. 775.082, s.  
320 775.083, or s. 775.084.

321 (5) For attempted murder in the second degree as described  
322 in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s.  
323 775.083, or s. 775.084.

324 (6) For murder in the third degree as described in s.  
325 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s.

326 775.084.

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

330 (8) For manslaughter as described in s. 782.07 during the  
 331 commission of a crime, a sentence pursuant to s. 775.082, s.  
 332 775.083, or s. 775.084.

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

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

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

339

340 Notwithstanding the provisions of s. 948.01, with respect to any  
 341 person who is found to have violated this section, adjudication  
 342 of guilt or imposition of sentence shall not be suspended,  
 343 deferred, or withheld.

344 Section 6. For the purpose of incorporating the amendment  
 345 made by this act to section 782.04, Florida Statutes, in  
 346 references thereto, section 782.051, Florida Statutes, is  
 347 reenacted to read:

348 782.051 Attempted felony murder.—

349 (1) Any person who perpetrates or attempts to perpetrate  
 350 any felony enumerated in s. 782.04(3) and who commits, aids, or  
 351 abets an intentional act that is not an essential element of the  
 352 felony and that could, but does not, cause the death of another  
 353 commits a felony of the first degree, punishable by imprisonment

354 for a term of years not exceeding life, or as provided in s.  
355 775.082, s. 775.083, or s. 775.084, which is an offense ranked  
356 in level 9 of the Criminal Punishment Code. Victim injury points  
357 shall be scored under this subsection.

358 (2) Any person who perpetrates or attempts to perpetrate  
359 any felony other than a felony enumerated in s. 782.04(3) and  
360 who commits, aids, or abets an intentional act that is not an  
361 essential element of the felony and that could, but does not,  
362 cause the death of another commits a felony of the first degree,  
363 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
364 which is an offense ranked in level 8 of the Criminal Punishment  
365 Code. Victim injury points shall be scored under this  
366 subsection.

367 (3) When a person is injured during the perpetration of or  
368 the attempt to perpetrate any felony enumerated in s. 782.04(3)  
369 by a person other than the person engaged in the perpetration of  
370 or the attempt to perpetrate such felony, the person  
371 perpetrating or attempting to perpetrate such felony commits a  
372 felony of the second degree, punishable as provided in s.  
373 775.082, s. 775.083, or s. 775.084, which is an offense ranked  
374 in level 7 of the Criminal Punishment Code. Victim injury points  
375 shall be scored under this subsection.

376 Section 7. For the purpose of incorporating the amendment  
377 made by this act to section 782.04, Florida Statutes, in  
378 references thereto, section 782.065, Florida Statutes, is  
379 reenacted to read:

380 782.065 Murder; law enforcement officer.—Notwithstanding  
381 ss. 775.082, 775.0823, 782.04, 782.051, and chapter 921, a

382 defendant shall be sentenced to life imprisonment without  
 383 eligibility for release upon findings by the trier of fact that,  
 384 beyond a reasonable doubt:

385 (1) The defendant committed murder in the first degree in  
 386 violation of s. 782.04(1) and a death sentence was not imposed;  
 387 murder in the second or third degree in violation of s.  
 388 782.04(2), (3), or (4); attempted murder in the first or second  
 389 degree in violation of s. 782.04(1)(a)1. or (2); or attempted  
 390 felony murder in violation of s. 782.051; and

391 (2) The victim of any offense described in subsection (1)  
 392 was a law enforcement officer, part-time law enforcement  
 393 officer, or auxiliary law enforcement officer, as those terms  
 394 are defined in s. 943.10, engaged in the lawful performance of a  
 395 legal duty.

396 Section 8. For the purpose of incorporating the amendment  
 397 made by this act to section 782.04, Florida Statutes, in a  
 398 reference thereto, subsection (3) of section 947.146, Florida  
 399 Statutes, is reenacted to read:

400 947.146 Control Release Authority.—

401 (3) Within 120 days prior to the date the state  
 402 correctional system is projected pursuant to s. 216.136 to  
 403 exceed 99 percent of total capacity, the authority shall  
 404 determine eligibility for and establish a control release date  
 405 for an appropriate number of parole ineligible inmates committed  
 406 to the department and incarcerated within the state who have  
 407 been determined by the authority to be eligible for  
 408 discretionary early release pursuant to this section. In  
 409 establishing control release dates, it is the intent of the



410 Legislature that the authority prioritize consideration of  
411 eligible inmates closest to their tentative release date. The  
412 authority shall rely upon commitment data on the offender  
413 information system maintained by the department to initially  
414 identify inmates who are to be reviewed for control release  
415 consideration. The authority may use a method of objective risk  
416 assessment in determining if an eligible inmate should be  
417 released. Such assessment shall be a part of the department's  
418 management information system. However, the authority shall have  
419 sole responsibility for determining control release eligibility,  
420 establishing a control release date, and effectuating the  
421 release of a sufficient number of inmates to maintain the inmate  
422 population between 99 percent and 100 percent of total capacity.  
423 Inmates who are ineligible for control release are inmates who  
424 are parole eligible or inmates who:

425 (a) Are serving a sentence that includes a mandatory  
426 minimum provision for a capital offense or drug trafficking  
427 offense and have not served the number of days equal to the  
428 mandatory minimum term less any jail-time credit awarded by the  
429 court;

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

432 (c) Are convicted, or have been previously convicted, of  
433 committing or attempting to commit sexual battery, incest, or  
434 any of the following lewd or indecent assaults or acts:  
435 masturbating in public; exposing the sexual organs in a  
436 perverted manner; or nonconsensual handling or fondling of the  
437 sexual organs of another person;

438 (d) Are convicted, or have been previously convicted, of  
439 committing or attempting to commit assault, aggravated assault,  
440 battery, or aggravated battery, and a sex act was attempted or  
441 completed during commission of such offense;

442 (e) Are convicted, or have been previously convicted, of  
443 committing or attempting to commit kidnapping, burglary, or  
444 murder, and the offense was committed with the intent to commit  
445 sexual battery or a sex act was attempted or completed during  
446 commission of the offense;

447 (f) Are convicted, or have been previously convicted, of  
448 committing or attempting to commit false imprisonment upon a  
449 child under the age of 13 and, in the course of committing the  
450 offense, the inmate committed aggravated child abuse, sexual  
451 battery against the child, or a lewd or lascivious offense  
452 committed upon or in the presence of a person less than 16 years  
453 of age;

454 (g) Are sentenced, have previously been sentenced, or have  
455 been sentenced at any time under s. 775.084, or have been  
456 sentenced at any time in another jurisdiction as a habitual  
457 offender;

458 (h) Are convicted, or have been previously convicted, of  
459 committing or attempting to commit assault, aggravated assault,  
460 battery, aggravated battery, kidnapping, manslaughter, or murder  
461 against an officer as defined in s. 943.10(1), (2), (3), (6),  
462 (7), (8), or (9); against a state attorney or assistant state  
463 attorney; or against a justice or judge of a court described in  
464 Art. V of the State Constitution; or against an officer, judge,  
465 or state attorney employed in a comparable position by any other

466 jurisdiction; or

467 (i) Are convicted, or have been previously convicted, of  
 468 committing or attempting to commit murder in the first, second,  
 469 or third degree under s. 782.04(1), (2), (3), or (4), or have  
 470 ever been convicted of any degree of murder or attempted murder  
 471 in another jurisdiction;

472 (j) Are convicted, or have been previously convicted, of  
 473 DUI manslaughter under s. 316.193(3)(c)3., and are sentenced, or  
 474 have been sentenced at any time, as a habitual offender for such  
 475 offense, or have been sentenced at any time in another  
 476 jurisdiction as a habitual offender for such offense;

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

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

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

492 (m) Are convicted, or have been previously convicted, of  
 493 committing or attempting to commit manslaughter, kidnapping,

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494 robbery, carjacking, home-invasion robbery, or a burglary under  
495 s. 810.02(2).

496

497 In making control release eligibility determinations under this  
498 subsection, the authority may rely on any document leading to or  
499 generated during the course of the criminal proceedings,  
500 including, but not limited to, any presentence or postsentence  
501 investigation or any information contained in arrest reports  
502 relating to circumstances of the offense.

503 Section 9. This act shall take effect October 1, 2012.