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LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 01/25/2012 | . |       |
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The Committee on Criminal Justice (Bennett) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

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

782.04 Murder.—

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

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



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

- 15           a. Trafficking offense prohibited by s. 893.135(1),  
16           b. Arson,  
17           c. Sexual battery,  
18           d. Robbery,  
19           e. Burglary,  
20           f. Kidnapping,  
21           g. Escape,  
22           h. Aggravated child abuse,  
23           i. Aggravated abuse of an elderly person or disabled adult,  
24           j. Aircraft piracy,  
25           k. Unlawful throwing, placing, or discharging of a  
26 destructive device or bomb,  
27           l. Carjacking,  
28           m. Home-invasion robbery,  
29           n. Aggravated stalking,  
30           o. Murder of another human being,  
31           p. Resisting an officer with violence to his or her person,  
32           q. Aggravated fleeing or eluding with serious bodily injury  
33 or death,

34           ~~r. q.~~ Felony that is an act of terrorism or is in  
35 furtherance of an act of terrorism; or

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



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42  
43 is murder in the first degree and constitutes a capital felony,  
44 punishable as provided in s. 775.082.

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

48 (2) The unlawful killing of a human being, when perpetrated  
49 by any act imminently dangerous to another and evincing a  
50 depraved mind regardless of human life, although without any  
51 premeditated design to effect the death of any particular  
52 individual, is murder in the second degree and constitutes a  
53 felony of the first degree, punishable by imprisonment for a  
54 term of years not exceeding life or as provided in s. 775.082,  
55 s. 775.083, or s. 775.084.

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

- 58 (a) Trafficking offense prohibited by s. 893.135(1),  
59 (b) Arson,  
60 (c) Sexual battery,  
61 (d) Robbery,  
62 (e) Burglary,  
63 (f) Kidnapping,  
64 (g) Escape,  
65 (h) Aggravated child abuse,  
66 (i) Aggravated abuse of an elderly person or disabled  
67 adult,  
68 (j) Aircraft piracy,  
69 (k) Unlawful throwing, placing, or discharging of a  
70 destructive device or bomb,



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- 71 (l) Carjacking,  
72 (m) Home-invasion robbery,  
73 (n) Aggravated stalking,  
74 (o) Murder of another human being,  
75 (p) Aggravated fleeing or eluding with serious bodily  
76 injury or death,  
77 (q) ~~(p)~~ Resisting an officer with violence to his or her  
78 person, or  
79 (r) ~~(q)~~ Felony that is an act of terrorism or is in  
80 furtherance of an act of terrorism,  
81  
82 by a person other than the person engaged in the perpetration of  
83 or in the attempt to perpetrate such felony, the person  
84 perpetrating or attempting to perpetrate such felony is guilty  
85 of murder in the second degree, which constitutes a felony of  
86 the first degree, punishable by imprisonment for a term of years  
87 not exceeding life or as provided in s. 775.082, s. 775.083, or  
88 s. 775.084.  
89 (4) The unlawful killing of a human being, when perpetrated  
90 without any design to effect death, by a person engaged in the  
91 perpetration of, or in the attempt to perpetrate, any felony  
92 other than any:  
93 (a) Trafficking offense prohibited by s. 893.135(1),  
94 (b) Arson,  
95 (c) Sexual battery,  
96 (d) Robbery,  
97 (e) Burglary,  
98 (f) Kidnapping,  
99 (g) Escape,



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- 100 (h) Aggravated child abuse,  
101 (i) Aggravated abuse of an elderly person or disabled  
102 adult,  
103 (j) Aircraft piracy,  
104 (k) Unlawful throwing, placing, or discharging of a  
105 destructive device or bomb,  
106 (l) Unlawful distribution of any substance controlled under  
107 s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or  
108 opium or any synthetic or natural salt, compound, derivative, or  
109 preparation of opium by a person 18 years of age or older, when  
110 such drug is proven to be the proximate cause of the death of  
111 the user,  
112 (m) Carjacking,  
113 (n) Home-invasion robbery,  
114 (o) Aggravated stalking,  
115 (p) Murder of another human being,  
116 (q) Aggravated fleeing or eluding with serious bodily  
117 injury or death,  
118 (r) ~~(q)~~ Resisting an officer with violence to his or her  
119 person, or  
120 (s) ~~(r)~~ Felony that is an act of terrorism or is in  
121 furtherance of an act of terrorism,  
122  
123 is murder in the third degree and constitutes a felony of the  
124 second degree, punishable as provided in s. 775.082, s. 775.083,  
125 or s. 775.084.  
126 (5) As used in this section, the term "terrorism" means an  
127 activity that:  
128 (a)1. Involves a violent act or an act dangerous to human



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129 life which is a violation of the criminal laws of this state or  
130 of the United States; or

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

132 (b) Is intended to:

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

134 2. Influence the policy of a government by intimidation or  
135 coercion; or

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

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

140 921.0022 Criminal Punishment Code; offense severity ranking  
141 chart.—

142 (3) OFFENSE SEVERITY RANKING CHART

143 (h) LEVEL 8

144

145

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|-------------|
|-----------------|---------------|-------------|

146

|         |     |                   |
|---------|-----|-------------------|
| 316.193 | 2nd | DUI manslaughter. |
|---------|-----|-------------------|

(3) (c) 3.a.

147

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

148

|                |     |                          |
|----------------|-----|--------------------------|
| 327.35(3)(c)3. | 2nd | Vessel BUI manslaughter. |
|----------------|-----|--------------------------|

149

|             |     |                                   |
|-------------|-----|-----------------------------------|
| 499.0051(7) | 1st | Knowing trafficking in contraband |
|-------------|-----|-----------------------------------|



prescription drugs.

150

499.0051(8) 1st Knowing forgery of prescription labels  
or prescription drug labels.

151

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.

152

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.

153

655.50(10)(b)2. 2nd Failure to report financial  
transactions totaling or exceeding  
\$20,000, but less than \$100,000 by  
financial institutions.

154

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

155

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



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serious bodily injury or death,  
aircraft piracy, or unlawfully  
discharging bomb.

156

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

157

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

158

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

159

790.161(3) 1st Discharging a destructive device which  
results in bodily harm or property  
damage.

160

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

161

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

162

800.04(4) 2nd Lewd or lascivious battery.





163 806.01(1) 1st Maliciously damage dwelling or  
structure by fire or explosive,  
believing person in structure.

164 810.02(2)(a) 1st,PBL Burglary with assault or battery.

165 810.02(2)(b) 1st,PBL Burglary; armed with explosives or  
dangerous weapon.

166 810.02(2)(c) 1st Burglary of a dwelling or structure  
causing structural damage or \$1,000 or  
more property damage.

167 812.014(2)(a)2. 1st Property stolen; cargo valued at  
\$50,000 or more, grand theft in 1st  
degree.

168 812.13(2)(b) 1st Robbery with a weapon.

169 812.135(2)(c) 1st Home-invasion robbery, no firearm,  
deadly weapon, or other weapon.

170 817.568(6) 2nd Fraudulent use of personal  
identification information of an  
individual under the age of 18.

171 825.102(2) 1st Aggravated abuse of an elderly person  
or disabled adult.



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|     |               |     |  |
|-----|---------------|-----|--|
| 172 | 825.1025(2)   | 2nd | Lewd or lascivious battery upon an elderly person or disabled adult.                                 |
| 173 | 825.103(2)(a) | 1st | Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.          |
| 174 | 837.02(2)     | 2nd | Perjury in official proceedings relating to prosecution of a capital felony.                         |
| 175 | 837.021(2)    | 2nd | Making contradictory statements in official proceedings relating to prosecution of a capital felony. |
| 176 | 860.121(2)(c) | 1st | Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.       |
| 177 | 860.16        | 1st | Aircraft piracy.   |
| 178 | 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).          |
| 179 | 893.13(2)(b)  | 1st | Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).                 |



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- 893.13(6)(c) 1st Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
- 893.135(1)(a)2. 1st Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
- 893.135(1)(b)1.b. 1st Trafficking in cocaine, more than 200 grams, less than 400 grams.
- 893.135(1)(c)1.b. 1st Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
- 893.135(1)(d)1.b. 1st Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
- 893.135(1)(e)1.b. 1st Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
- 893.135(1)(f)1.b. 1st Trafficking in amphetamine, more than 28 grams, less than 200 grams.
- 893.135(1)(g)1.b. 1st Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
- 893.135(1)(h)1.b. 1st Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.



|     |                       |     |  |
|-----|-----------------------|-----|--|
| 189 | 893.135<br>(1)(j)1.b. | 1st | Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.                                      |
| 190 | 893.135<br>(1)(k)2.b. | 1st | Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.  |
| 191 | 893.1351(3)           | 1st | Possession of a place used to manufacture controlled substance when minor is present or resides there.           |
| 192 | 895.03(1)             | 1st | Use or invest proceeds derived from pattern of racketeering activity.  |
| 193 | 895.03(2)             | 1st | Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property. |
| 194 | 895.03(3)             | 1st | Conduct or participate in any enterprise through pattern of racketeering activity.                               |
| 195 | 896.101(5)(b)         | 2nd | Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.                |
| 196 | 896.104(4)(a)2.       | 2nd | Structuring transactions to evade  |



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reporting or registration requirements,  
financial transactions totaling or  
exceeding \$20,000 but less than  
\$100,000.

197  
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199

(i) LEVEL 9

200  
201  
202  
203  
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| Florida Statute      | Felony Degree | Description   |
|----------------------|---------------|---|
| 316.193 (3) (c) 3.b. | 1st           | DUI manslaughter; failing to render aid or give information.  |
| 327.35 (3) (c) 3.b.  | 1st           | BUI manslaughter; failing to render aid or give information.  |
| 409.920 (2) (b) 1.c. | 1st           | Medicaid provider fraud; \$50,000 or more.  |
| 499.0051 (9)         | 1st           | Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.               |
| 560.123 (8) (b) 3.   | 1st           | Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter. |
| 560.125 (5) (c)      | 1st           | Money transmitter business by unauthorized person, currency, or   |



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payment instruments totaling or  
exceeding \$100,000.

206

655.50(10)(b)3.      1st      Failure to report financial  
transactions totaling or exceeding  
\$100,000 by financial institution.

207

775.0844              1st      Aggravated white collar crime.

208

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

209

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.

210

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

211

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

212

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

213



|     |                |         |  |
|-----|----------------|---------|--|
| 214 | 787.01(1)(a)2. | 1st,PBL | Kidnapping with intent to commit or facilitate commission of any felony.   |
| 215 | 787.01(1)(a)4. | 1st,PBL | Kidnapping with intent to interfere with performance of any governmental or political function.  |
| 216 | 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. |
| 217 | 790.161        | 1st     | Attempted capital destructive device offense.  |
| 218 | 790.166(2)     | 1st,PBL | Possessing, selling, using, or attempting to use a weapon of mass destruction.   |
| 219 | 794.011(2)     | 1st     | Attempted sexual battery; victim less than 12 years of age.  |
| 220 | 794.011(2)     | Life    | Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.  |
|     | 794.011(4)     | 1st     | Sexual battery; victim 12 years or   |



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older, certain circumstances.

221

794.011(8)(b) 1st Sexual battery; engage in sexual  
conduct with minor 12 to 18 years by  
person in familial or custodial  
authority.

222

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

223

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

224

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

225

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

226

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

227

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.

228

827.03(2) 1st Aggravated child abuse.





|     |                       |     |   |
|-----|-----------------------|-----|---|
| 229 | 847.0145(1)           | 1st | Selling, or otherwise transferring custody or control, of a minor.  |
| 230 | 847.0145(2)           | 1st | Purchasing, or otherwise obtaining custody or control, of a minor.  |
| 231 | 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. |
| 232 | 893.135               | 1st | Attempted capital trafficking offense.  |
| 233 | 893.135(1)(a)3.       | 1st | Trafficking in cannabis, more than 10,000 lbs.  |
| 234 | 893.135<br>(1)(b)1.c. | 1st | Trafficking in cocaine, more than 400 grams, less than 150 kilograms.   |
| 235 | 893.135<br>(1)(c)1.c. | 1st | Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.   |
| 236 | 893.135<br>(1)(d)1.c. | 1st | Trafficking in phencyclidine, more than 400 grams.  |
| 237 | 893.135<br>(1)(e)1.c. | 1st | Trafficking in methaqualone, more than 25 kilograms.  |



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238 893.135 1st Trafficking in amphetamine, more than  
(1) (f) 1.c. 200 grams.

239 893.135 1st Trafficking in gamma-hydroxybutyric  
(1) (h) 1.c. acid (GHB), 10 kilograms or more.

240 893.135 1st Trafficking in 1,4-Butanediol, 10  
(1) (j) 1.c. kilograms or more.

241 893.135 1st Trafficking in Phenethylamines, 400  
(1) (k) 2.c. grams or more.

242 896.101 (5) (c) 1st Money laundering, financial  
instruments totaling or exceeding  
\$100,000.

243 896.104 (4) (a) 3. 1st Structuring transactions to evade  
reporting or registration  
requirements, financial transactions  
totaling or exceeding \$100,000.

244  
245 Section 4. For the purpose of incorporating the amendment  
246 made by this act to section 782.04, Florida Statutes, in a  
247 reference thereto, section 775.0823, Florida Statutes, is  
248 reenacted to read:

249 775.0823 Violent offenses committed against law enforcement  
250 officers, correctional officers, state attorneys, assistant  
251 state attorneys, justices, or judges.—The Legislature does



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252 hereby provide for an increase and certainty of penalty for any  
253 person convicted of a violent offense against any law  
254 enforcement or correctional officer, as defined in s. 943.10(1),  
255 (2), (3), (6), (7), (8), or (9); against any state attorney  
256 elected pursuant to s. 27.01 or assistant state attorney  
257 appointed under s. 27.181; or against any justice or judge of a  
258 court described in Art. V of the State Constitution, which  
259 offense arises out of or in the scope of the officer's duty as a  
260 law enforcement or correctional officer, the state attorney's or  
261 assistant state attorney's duty as a prosecutor or investigator,  
262 or the justice's or judge's duty as a judicial officer, as  
263 follows:

264 (1) For murder in the first degree as described in s.  
265 782.04(1), if the death sentence is not imposed, a sentence of  
266 imprisonment for life without eligibility for release.

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

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

272 (4) For murder in the second degree as described in s.  
273 782.04(2) and (3), a sentence pursuant to s. 775.082, s.  
274 775.083, or s. 775.084.

275 (5) For attempted murder in the second degree as described  
276 in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s.  
277 775.083, or s. 775.084.

278 (6) For murder in the third degree as described in s.  
279 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s.  
280 775.084.



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

284 (8) For manslaughter as described in s. 782.07 during the  
285 commission of a crime, a sentence pursuant to s. 775.082, s.  
286 775.083, or s. 775.084.

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

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

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

293  
294 Notwithstanding the provisions of s. 948.01, with respect to any  
295 person who is found to have violated this section, adjudication  
296 of guilt or imposition of sentence shall not be suspended,  
297 deferred, or withheld.

298 Section 5. For the purpose of incorporating the amendment  
299 made by this act to section 782.04, Florida Statutes, in a  
300 reference thereto, section 782.051, Florida Statutes, is  
301 reenacted to read:

302 782.051 Attempted felony murder.—

303 (1) Any person who perpetrates or attempts to perpetrate  
304 any felony enumerated in s. 782.04(3) and who commits, aids, or  
305 abets an intentional act that is not an essential element of the  
306 felony and that could, but does not, cause the death of another  
307 commits a felony of the first degree, punishable by imprisonment  
308 for a term of years not exceeding life, or as provided in s.  
309 775.082, s. 775.083, or s. 775.084, which is an offense ranked



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310 in level 9 of the Criminal Punishment Code. Victim injury points  
311 shall be scored under this subsection.

312 (2) Any person who perpetrates or attempts to perpetrate  
313 any felony other than a felony enumerated in s. 782.04(3) and  
314 who commits, aids, or abets an intentional act that is not an  
315 essential element of the felony and that could, but does not,  
316 cause the death of another commits a felony of the first degree,  
317 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
318 which is an offense ranked in level 8 of the Criminal Punishment  
319 Code. Victim injury points shall be scored under this  
320 subsection.

321 (3) When a person is injured during the perpetration of or  
322 the attempt to perpetrate any felony enumerated in s. 782.04(3)  
323 by a person other than the person engaged in the perpetration of  
324 or the attempt to perpetrate such felony, the person  
325 perpetrating or attempting to perpetrate such felony commits a  
326 felony of the second degree, punishable as provided in s.  
327 775.082, s. 775.083, or s. 775.084, which is an offense ranked  
328 in level 7 of the Criminal Punishment Code. Victim injury points  
329 shall be scored under this subsection.

330 Section 6. For the purpose of incorporating the amendment  
331 made by this act to section 782.04, Florida Statutes, in a  
332 reference thereto, section 782.065, Florida Statutes, is  
333 reenacted to read:

334 782.065 Murder; law enforcement officer.—Notwithstanding  
335 ss. 775.082, 775.0823, 782.04, 782.051, and chapter 921, a  
336 defendant shall be sentenced to life imprisonment without  
337 eligibility for release upon findings by the trier of fact that,  
338 beyond a reasonable doubt:



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339 (1) The defendant committed murder in the first degree in  
340 violation of s. 782.04(1) and a death sentence was not imposed;  
341 murder in the second or third degree in violation of s.  
342 782.04(2), (3), or (4); attempted murder in the first or second  
343 degree in violation of s. 782.04(1)(a)1. or (2); or attempted  
344 felony murder in violation of s. 782.051; and

345 (2) The victim of any offense described in subsection (1)  
346 was a law enforcement officer, part-time law enforcement  
347 officer, or auxiliary law enforcement officer, as those terms  
348 are defined in s. 943.10, engaged in the lawful performance of a  
349 legal duty.

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

354 947.146 Control Release Authority.—

355 (3) Within 120 days prior to the date the state  
356 correctional system is projected pursuant to s. 216.136 to  
357 exceed 99 percent of total capacity, the authority shall  
358 determine eligibility for and establish a control release date  
359 for an appropriate number of parole ineligible inmates committed  
360 to the department and incarcerated within the state who have  
361 been determined by the authority to be eligible for  
362 discretionary early release pursuant to this section. In  
363 establishing control release dates, it is the intent of the  
364 Legislature that the authority prioritize consideration of  
365 eligible inmates closest to their tentative release date. The  
366 authority shall rely upon commitment data on the offender  
367 information system maintained by the department to initially



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368 identify inmates who are to be reviewed for control release  
369 consideration. The authority may use a method of objective risk  
370 assessment in determining if an eligible inmate should be  
371 released. Such assessment shall be a part of the department's  
372 management information system. However, the authority shall have  
373 sole responsibility for determining control release eligibility,  
374 establishing a control release date, and effectuating the  
375 release of a sufficient number of inmates to maintain the inmate  
376 population between 99 percent and 100 percent of total capacity.  
377 Inmates who are ineligible for control release are inmates who  
378 are parole eligible or inmates who:

379 (a) Are serving a sentence that includes a mandatory  
380 minimum provision for a capital offense or drug trafficking  
381 offense and have not served the number of days equal to the  
382 mandatory minimum term less any jail-time credit awarded by the  
383 court;

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

386 (c) Are convicted, or have been previously convicted, of  
387 committing or attempting to commit sexual battery, incest, or  
388 any of the following lewd or indecent assaults or acts:  
389 masturbating in public; exposing the sexual organs in a  
390 perverted manner; or nonconsensual handling or fondling of the  
391 sexual organs of another person;

392 (d) Are convicted, or have been previously convicted, of  
393 committing or attempting to commit assault, aggravated assault,  
394 battery, or aggravated battery, and a sex act was attempted or  
395 completed during commission of such offense;

396 (e) Are convicted, or have been previously convicted, of



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397 committing or attempting to commit kidnapping, burglary, or  
398 murder, and the offense was committed with the intent to commit  
399 sexual battery or a sex act was attempted or completed during  
400 commission of the offense;

401 (f) Are convicted, or have been previously convicted, of  
402 committing or attempting to commit false imprisonment upon a  
403 child under the age of 13 and, in the course of committing the  
404 offense, the inmate committed aggravated child abuse, sexual  
405 battery against the child, or a lewd or lascivious offense  
406 committed upon or in the presence of a person less than 16 years  
407 of age;

408 (g) Are sentenced, have previously been sentenced, or have  
409 been sentenced at any time under s. 775.084, or have been  
410 sentenced at any time in another jurisdiction as a habitual  
411 offender;

412 (h) Are convicted, or have been previously convicted, of  
413 committing or attempting to commit assault, aggravated assault,  
414 battery, aggravated battery, kidnapping, manslaughter, or murder  
415 against an officer as defined in s. 943.10(1), (2), (3), (6),  
416 (7), (8), or (9); against a state attorney or assistant state  
417 attorney; or against a justice or judge of a court described in  
418 Art. V of the State Constitution; or against an officer, judge,  
419 or state attorney employed in a comparable position by any other  
420 jurisdiction; or

421 (i) Are convicted, or have been previously convicted, of  
422 committing or attempting to commit murder in the first, second,  
423 or third degree under s. 782.04(1), (2), (3), or (4), or have  
424 ever been convicted of any degree of murder or attempted murder  
425 in another jurisdiction;





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426 (j) Are convicted, or have been previously convicted, of  
427 DUI manslaughter under s. 316.193(3)(c)3., and are sentenced, or  
428 have been sentenced at any time, as a habitual offender for such  
429 offense, or have been sentenced at any time in another  
430 jurisdiction as a habitual offender for such offense;

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

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

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

446 (m) Are convicted, or have been previously convicted, of  
447 committing or attempting to commit manslaughter, kidnapping,  
448 robbery, carjacking, home-invasion robbery, or a burglary under  
449 s. 810.02(2).

450  
451 In making control release eligibility determinations under this  
452 subsection, the authority may rely on any document leading to or  
453 generated during the course of the criminal proceedings,  
454 including, but not limited to, any presentence or postsentence



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455 investigation or any information contained in arrest reports  
456 relating to circumstances of the offense.

457 Section 8. This act shall take effect October 1, 2012.  
458

459 ===== T I T L E A M E N D M E N T =====

460 And the title is amended as follows:

461 Delete everything before the enacting clause  
462 and insert:

463 A bill to be entitled

464 An act relating to murder; amending s. 782.04, F.S.;  
465 providing that the unlawful killing of a human being  
466 when committed by a person engaged in the perpetration  
467 of, or in the attempt to perpetrate, the offense of  
468 aggravated fleeing or eluding with serious bodily  
469 injury or death, is murder of a specified degree,  
470 dependent upon certain circumstances; amending s.  
471 921.0022, F.S.; revising provisions of the offense  
472 severity ranking chart of the Criminal Punishment Code  
473 to conform to changes made by the act; reenacting ss.  
474 775.0823, 782.051, 782.065, and 947.146(3), F.S.,  
475 relating to violent offenses committed against law  
476 enforcement officers and others, attempted felony  
477 murder, murder of a law enforcement officer, and the  
478 Control Release Authority, respectively, to  
479 incorporate the amendments made to s. 782.04, F.S., in  
480 references thereto; providing an effective date.