

By Senator Fasano

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

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

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

24           782.04 Murder.—

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

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

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

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- 30 a. Trafficking offense prohibited by s. 893.135(1),  
31 b. Arson,  
32 c. Sexual battery,  
33 d. Robbery,  
34 e. Burglary,  
35 f. Kidnapping,  
36 g. Escape,  
37 h. Aggravated child abuse,  
38 i. Aggravated abuse of an elderly person or disabled adult,  
39 j. Aircraft piracy,  
40 k. Unlawful throwing, placing, or discharging of a  
41 destructive device or bomb,  
42 l. Carjacking,  
43 m. Home-invasion robbery,  
44 n. Aggravated stalking,  
45 o. Murder of another human being,  
46 p. Resisting an officer with violence to his or her person,  
47 q. Aggravated fleeing or eluding,  
48 r.~~q.~~ Felony that is an act of terrorism or is in  
49 furtherance of an act of terrorism; or  
50 3. Which resulted from the unlawful distribution of any  
51 substance controlled under s. 893.03(1), cocaine as described in  
52 s. 893.03(2)(a)4., opium or any synthetic or natural salt,  
53 compound, derivative, or preparation of opium, or methadone by a  
54 person 18 years of age or older, when such drug is proven to be  
55 the proximate cause of the death of the user,  
56  
57 is murder in the first degree and constitutes a capital felony,  
58 punishable as provided in s. 775.082.

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

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

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

- 72 (a) Trafficking offense prohibited by s. 893.135(1),  
73 (b) Arson,  
74 (c) Sexual battery,  
75 (d) Robbery,  
76 (e) Burglary,  
77 (f) Kidnapping,  
78 (g) Escape,  
79 (h) Aggravated child abuse,  
80 (i) Aggravated abuse of an elderly person or disabled  
81 adult,  
82 (j) Aircraft piracy,  
83 (k) Unlawful throwing, placing, or discharging of a  
84 destructive device or bomb,  
85 (l) Carjacking,  
86 (m) Home-invasion robbery,  
87 (n) Aggravated stalking,

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88 (o) Murder of another human being,

89 (p) Aggravated fleeing or eluding,

90 (q)~~(p)~~ Resisting an officer with violence to his or her  
91 person, or

92 (r)~~(q)~~ Felony that is an act of terrorism or is in  
93 furtherance of an act of terrorism,

94

95 by a person other than the person engaged in the perpetration of

96 or in the attempt to perpetrate such felony, the person

97 perpetrating or attempting to perpetrate such felony is guilty

98 of murder in the second degree, which constitutes a felony of

99 the first degree, punishable by imprisonment for a term of years

100 not exceeding life or as provided in s. 775.082, s. 775.083, or

101 s. 775.084.

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

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

107 (b) Arson,

108 (c) Sexual battery,

109 (d) Robbery,

110 (e) Burglary,

111 (f) Kidnapping,

112 (g) Escape,

113 (h) Aggravated child abuse,

114 (i) Aggravated abuse of an elderly person or disabled  
115 adult,

116 (j) Aircraft piracy,

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117 (k) Unlawful throwing, placing, or discharging of a  
118 destructive device or bomb,

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

125 (m) Carjacking,

126 (n) Home-invasion robbery,

127 (o) Aggravated stalking,

128 (p) Murder of another human being,

129 (q) Aggravated fleeing or eluding,

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

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

134

135 is murder in the third degree and constitutes a felony of the  
136 second degree, punishable as provided in s. 775.082, s. 775.083,  
137 or s. 775.084.

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

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

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

144 (b) Is intended to:

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

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146 2. Influence the policy of a government by intimidation or  
 147 coercion; or

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

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

152 921.0022 Criminal Punishment Code; offense severity ranking  
 153 chart.—

154 (3) OFFENSE SEVERITY RANKING CHART

155 (h) LEVEL 8

156

Florida	Felony	
Statute	Degree	Description

157

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

158

316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
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159

327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
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160

499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
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161

499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
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162

560.123 (8) (b) 2.	2nd	Failure to report currency or payment
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instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.

163

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.

164

655.50 (10) (b) 2. 2nd

Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.

165

777.03 (2) (a) 1st

Accessory after the fact, capital felony.

166

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, aircraft piracy, or unlawfully discharging bomb.

167

782.051 (2) 1st

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

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176

- 782.071 (1) (b) 1st Committing vehicular homicide and failing to render aid or give information.
- 782.072 (2) 1st Committing vessel homicide and failing to render aid or give information.
- 790.161 (3) 1st Discharging a destructive device which results in bodily harm or property damage.
- 794.011 (5) 2nd Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
- 794.08 (3) 2nd Female genital mutilation, removal of a victim younger than 18 years of age from this state.
- 800.04 (4) 2nd Lewd or lascivious battery.
- 806.01 (1) 1st Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
- 810.02 (2) (a) 1st, PBL Burglary with assault or battery.
- 810.02 (2) (b) 1st, PBL Burglary; armed with explosives or



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dangerous weapon.

177

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

178

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

179

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

180

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

181

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

182

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

183

825.1025 (2) 2nd Lewd or lascivious battery upon an elderly person or disabled adult.

184

825.103 (2) (a) 1st Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.

185

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186	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
187	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
188	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
189	860.16	1st	Aircraft piracy.
190	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).
191	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
192	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
193	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.

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- 194 893.135 1st Trafficking in cocaine, more than 200  
       (1) (b) 1.b. grams, less than 400 grams.
- 195 893.135 1st Trafficking in illegal drugs, more than  
       (1) (c) 1.b. 14 grams, less than 28 grams.
- 196 893.135 1st Trafficking in phencyclidine, more than  
       (1) (d) 1.b. 200 grams, less than 400 grams.
- 197 893.135 1st Trafficking in methaqualone, more than  
       (1) (e) 1.b. 5 kilograms, less than 25 kilograms.
- 198 893.135 1st Trafficking in amphetamine, more than  
       (1) (f) 1.b. 28 grams, less than 200 grams.
- 199 893.135 1st Trafficking in flunitrazepam, 14 grams  
       (1) (g) 1.b. or more, less than 28 grams.
- 200 893.135 1st Trafficking in gamma-hydroxybutyric  
       (1) (h) 1.b. acid (GHB), 5 kilograms or more, less  
                   than 10 kilograms.
- 201 893.135 1st Trafficking in 1,4-Butanediol, 5  
       (1) (j) 1.b. kilograms or more, less than 10  
                   kilograms.
- 202 893.135 1st Trafficking in Phenethylamines, 200  
       (1) (k) 2.b. grams or more, less than 400 grams.



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	Florida Statute	Felony Degree	Description
211	316.193 (3) (c) 3.b.	1st	DUI manslaughter; failing to render aid or give information.
212	327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
213	409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
214	499.0051 (9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
215	560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
216	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
217	655.50 (10) (b) 3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
218			

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219	775.0844	1st	Aggravated white collar crime.
220	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
221	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, <u>aggravated fleeing or eluding</u> , and other specified felonies.
222	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
223	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
224	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
225	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
226	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
	787.02(3)(a)	1st	False imprisonment; child under age

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13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.

227

790.161 1st Attempted capital destructive device offense.

228

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

229

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

230

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

231

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

232

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

233

794.08 (2) 1st Female genital mutilation; victim

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younger than 18 years of age.

234

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

235

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

236

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

237

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

238

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.

239

827.03 (2) 1st Aggravated child abuse.

240

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

241

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

242

859.01 1st Poisoning or introducing bacteria,



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radioactive materials, viruses, or  
chemical compounds into food, drink,  
medicine, or water with intent to kill  
or injure another person.

243

893.135 1st Attempted capital trafficking offense.

244

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

245

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

246

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

247

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

248

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

249

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

250

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

251

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

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

252

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

253

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

254

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

255

256 Section 3. For the purpose of incorporating the amendment  
 257 made by this act to section 782.04, Florida Statutes, in a  
 258 reference thereto, section 775.0823, Florida Statutes, is  
 259 reenacted to read:

260 775.0823 Violent offenses committed against law enforcement  
 261 officers, correctional officers, state attorneys, assistant  
 262 state attorneys, justices, or judges.—The Legislature does  
 263 hereby provide for an increase and certainty of penalty for any  
 264 person convicted of a violent offense against any law  
 265 enforcement or correctional officer, as defined in s. 943.10(1),  
 266 (2), (3), (6), (7), (8), or (9); against any state attorney  
 267 elected pursuant to s. 27.01 or assistant state attorney  
 268 appointed under s. 27.181; or against any justice or judge of a  
 269 court described in Art. V of the State Constitution, which  
 270 offense arises out of or in the scope of the officer's duty as a

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271 law enforcement or correctional officer, the state attorney's or  
272 assistant state attorney's duty as a prosecutor or investigator,  
273 or the justice's or judge's duty as a judicial officer, as  
274 follows:

275 (1) For murder in the first degree as described in s.  
276 782.04(1), if the death sentence is not imposed, a sentence of  
277 imprisonment for life without eligibility for release.

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

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

283 (4) For murder in the second degree as described in s.  
284 782.04(2) and (3), a sentence pursuant to s. 775.082, s.  
285 775.083, or s. 775.084.

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

289 (6) For murder in the third degree as described in s.  
290 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s.  
291 775.084.

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

295 (8) For manslaughter as described in s. 782.07 during the  
296 commission of a crime, a sentence pursuant to s. 775.082, s.  
297 775.083, or s. 775.084.

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

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

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

304

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

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

313 782.051 Attempted felony murder.—

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

323 (2) Any person who perpetrates or attempts to perpetrate  
324 any felony other than a felony enumerated in s. 782.04(3) and  
325 who commits, aids, or abets an intentional act that is not an  
326 essential element of the felony and that could, but does not,  
327 cause the death of another commits a felony of the first degree,  
328 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,

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329 which is an offense ranked in level 8 of the Criminal Punishment  
330 Code. Victim injury points shall be scored under this  
331 subsection.

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

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

345 782.065 Murder; law enforcement officer.—Notwithstanding  
346 ss. 775.082, 775.0823, 782.04, 782.051, and chapter 921, a  
347 defendant shall be sentenced to life imprisonment without  
348 eligibility for release upon findings by the trier of fact that,  
349 beyond a reasonable doubt:

350 (1) The defendant committed murder in the first degree in  
351 violation of s. 782.04(1) and a death sentence was not imposed;  
352 murder in the second or third degree in violation of s.  
353 782.04(2), (3), or (4); attempted murder in the first or second  
354 degree in violation of s. 782.04(1)(a)1. or (2); or attempted  
355 felony murder in violation of s. 782.051; and

356 (2) The victim of any offense described in subsection (1)  
357 was a law enforcement officer, part-time law enforcement

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358 officer, or auxiliary law enforcement officer, as those terms  
359 are defined in s. 943.10, engaged in the lawful performance of a  
360 legal duty.

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

365 947.146 Control Release Authority.—

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

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387 population between 99 percent and 100 percent of total capacity.  
388 Inmates who are ineligible for control release are inmates who  
389 are parole eligible or inmates who:

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

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

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

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

407 (e) Are convicted, or have been previously convicted, of  
408 committing or attempting to commit kidnapping, burglary, or  
409 murder, and the offense was committed with the intent to commit  
410 sexual battery or a sex act was attempted or completed during  
411 commission of the offense;

412 (f) Are convicted, or have been previously convicted, of  
413 committing or attempting to commit false imprisonment upon a  
414 child under the age of 13 and, in the course of committing the  
415 offense, the inmate committed aggravated child abuse, sexual

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416 battery against the child, or a lewd or lascivious offense  
417 committed upon or in the presence of a person less than 16 years  
418 of age;

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

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

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

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

442 (k)1. Are serving a sentence for an offense committed on or  
443 after January 1, 1994, for a violation of the Law Enforcement  
444 Protection Act under s. 775.0823(2), (3), (4), (5), or (6), and



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445 the subtotal of the offender's sentence points is multiplied  
446 pursuant to former s. 921.0014 or s. 921.0024;

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

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

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

461  
462 In making control release eligibility determinations under this  
463 subsection, the authority may rely on any document leading to or  
464 generated during the course of the criminal proceedings,  
465 including, but not limited to, any presentence or postsentence  
466 investigation or any information contained in arrest reports  
467 relating to circumstances of the offense.

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