

By the Committee on Criminal Justice; and Senator Fasano

591-02364-12

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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 with serious bodily
7 injury or death, is murder of a specified degree,
8 dependent upon certain circumstances; amending s.
9 921.0022, F.S.; revising provisions of the offense
10 severity ranking chart of the Criminal Punishment Code
11 to conform to changes made by the act; reenacting ss.
12 775.0823, 782.051, 782.065, and 947.146(3), F.S.,
13 relating to violent offenses committed against law
14 enforcement officers and others, attempted felony
15 murder, murder of a law enforcement officer, and the
16 Control Release Authority, respectively, to
17 incorporate the amendments made to s. 782.04, F.S., in
18 references thereto; providing an effective date.

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

21
22 Section 1. This act may be cited as the "Deputy John C.
23 Mecklenburg Act."

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

26 782.04 Murder.—

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

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

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

- 32 a. Trafficking offense prohibited by s. 893.135(1),
33 b. Arson,
34 c. Sexual battery,
35 d. Robbery,
36 e. Burglary,
37 f. Kidnapping,
38 g. Escape,
39 h. Aggravated child abuse,
40 i. Aggravated abuse of an elderly person or disabled adult,
41 j. Aircraft piracy,
42 k. Unlawful throwing, placing, or discharging of a
43 destructive device or bomb,
44 l. Carjacking,
45 m. Home-invasion robbery,
46 n. Aggravated stalking,
47 o. Murder of another human being,
48 p. Resisting an officer with violence to his or her person,
49 q. Aggravated fleeing or eluding with serious bodily injury
50 or death,

51 ~~r. &~~ Felony that is an act of terrorism or is in
52 furtherance of an act of terrorism; or

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

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

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

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

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

- (a) Trafficking offense prohibited by s. 893.135(1),
- (b) Arson,
- (c) Sexual battery,
- (d) Robbery,
- (e) Burglary,
- (f) Kidnapping,
- (g) Escape,
- (h) Aggravated child abuse,
- (i) Aggravated abuse of an elderly person or disabled adult,
- (j) Aircraft piracy,
- (k) Unlawful throwing, placing, or discharging of a destructive device or bomb,

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

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

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146 life which is a violation of the criminal laws of this state or
 147 of the United States; or

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

149 (b) Is intended to:

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

151 2. Influence the policy of a government by intimidation or
 152 coercion; or

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

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

157 921.0022 Criminal Punishment Code; offense severity ranking
 158 chart.—

159 (3) OFFENSE SEVERITY RANKING CHART

160 (h) LEVEL 8

161

Florida	Felony		
Statute	Degree		Description

162

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

163

316.1935(4) (b)	1st		Aggravated fleeing or attempted eluding with serious bodily injury or death.
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164

327.35(3) (c) 3.	2nd		Vessel BUI manslaughter.
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165

499.0051(7)	1st		Knowing trafficking in contraband prescription drugs.
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499.0051(8) 1st Knowing forgery of prescription labels or prescription drug labels.

167

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.

168

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.

169

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

170

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

171

782.04(4) 2nd Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death,

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aircraft piracy, or unlawfully
discharging bomb.

172

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

173

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

174

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

175

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

176

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

177

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

178

800.04 (4) 2nd Lewd or lascivious battery.

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- 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 dangerous weapon.
- 810.02(2)(c) 1st Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
- 812.014(2)(a)2. 1st Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
- 812.13(2)(b) 1st Robbery with a weapon.
- 812.135(2)(c) 1st Home-invasion robbery, no firearm, deadly weapon, or other weapon.
- 817.568(6) 2nd Fraudulent use of personal identification information of an individual under the age of 18.
- 825.102(2) 1st Aggravated abuse of an elderly person or disabled adult.

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189

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

190

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

191

837.02(2) 2nd Perjury in official proceedings relating to prosecution of a capital felony.

192

837.021(2) 2nd Making contradictory statements in official proceedings relating to prosecution of a capital felony.

193

860.121(2)(c) 1st Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.

194

860.16 1st Aircraft piracy.

195

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).

196

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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197

893.13(6)(c) 1st Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

198

893.135(1)(a)2. 1st Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.

199

893.135(1)(b)1.b. 1st Trafficking in cocaine, more than 200 grams, less than 400 grams.

200

893.135(1)(c)1.b. 1st Trafficking in illegal drugs, more than 14 grams, less than 28 grams.

201

893.135(1)(d)1.b. 1st Trafficking in phencyclidine, more than 200 grams, less than 400 grams.

202

893.135(1)(e)1.b. 1st Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.

203

893.135(1)(f)1.b. 1st Trafficking in amphetamine, more than 28 grams, less than 200 grams.

204

893.135(1)(g)1.b. 1st Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.

205

893.135(1)(h)1.b. 1st Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.

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893.135 1st Trafficking in 1,4-Butanediol, 5
 (1) (j) 1.b. kilograms or more, less than 10
 kilograms.

206

893.135 1st Trafficking in Phenethylamines, 200
 (1) (k) 2.b. grams or more, less than 400 grams.

207

893.1351(3) 1st Possession of a place used to
 manufacture controlled substance when
 minor is present or resides there.

208

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

209

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

210

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

211

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

212

896.104(4) (a) 2. 2nd Structuring transactions to evade
 reporting or registration requirements,

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

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(i) LEVEL 9

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 payment instruments totaling or

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exceeding \$100,000.

222

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

223

775.0844 1st Aggravated white collar crime.

224

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

225

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.

226

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

227

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

228

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

229

787.01(1)(a)2. 1st,PBL Kidnapping with intent to commit or

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facilitate commission of any felony.

230

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

231

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.

232

790.161 1st Attempted capital destructive device offense.

233

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

234

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

235

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

236

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

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237

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

238

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

239

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

240

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

241

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

242

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

243

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.

244

827.03 (2) 1st Aggravated child abuse.

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246

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

247

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

248

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.

249

893.135 1st Attempted capital trafficking offense.

250

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

251

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

252

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

253

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

254

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

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

255

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

256

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

257

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

258

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

259

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

260

261 Section 4. For the purpose of incorporating the amendment
262 made by this act to section 782.04, Florida Statutes, in a
263 reference thereto, section 775.0823, Florida Statutes, is
264 reenacted to read:

265 775.0823 Violent offenses committed against law enforcement
266 officers, correctional officers, state attorneys, assistant
267 state attorneys, justices, or judges.—The Legislature does
268 hereby provide for an increase and certainty of penalty for any

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269 person convicted of a violent offense against any law
270 enforcement or correctional officer, as defined in s. 943.10(1),
271 (2), (3), (6), (7), (8), or (9); against any state attorney
272 elected pursuant to s. 27.01 or assistant state attorney
273 appointed under s. 27.181; or against any justice or judge of a
274 court described in Art. V of the State Constitution, which
275 offense arises out of or in the scope of the officer's duty as a
276 law enforcement or correctional officer, the state attorney's or
277 assistant state attorney's duty as a prosecutor or investigator,
278 or the justice's or judge's duty as a judicial officer, as
279 follows:

280 (1) For murder in the first degree as described in s.
281 782.04(1), if the death sentence is not imposed, a sentence of
282 imprisonment for life without eligibility for release.

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

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

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

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

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

297 (7) For attempted murder in the third degree as described

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298 in s. 782.04(4), a sentence pursuant to s. 775.082, s. 775.083,
299 or s. 775.084.

300 (8) For manslaughter as described in s. 782.07 during the
301 commission of a crime, a sentence pursuant to s. 775.082, s.
302 775.083, or s. 775.084.

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

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

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

309

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

314 Section 5. For the purpose of incorporating the amendment
315 made by this act to section 782.04, Florida Statutes, in a
316 reference thereto, section 782.051, Florida Statutes, is
317 reenacted to read:

318 782.051 Attempted felony murder.—

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

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327 shall be scored under this subsection.

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

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

346 Section 6. For the purpose of incorporating the amendment
347 made by this act to section 782.04, Florida Statutes, in a
348 reference thereto, section 782.065, Florida Statutes, is
349 reenacted to read:

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

355 (1) The defendant committed murder in the first degree in

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356 violation of s. 782.04(1) and a death sentence was not imposed;
357 murder in the second or third degree in violation of s.
358 782.04(2), (3), or (4); attempted murder in the first or second
359 degree in violation of s. 782.04(1)(a)1. or (2); or attempted
360 felony murder in violation of s. 782.051; and

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

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

370 947.146 Control Release Authority.—

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

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

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

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

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

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

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

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

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

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

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

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

442 (j) Are convicted, or have been previously convicted, of

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443 DUI manslaughter under s. 316.193(3)(c)3., and are sentenced, or
444 have been sentenced at any time, as a habitual offender for such
445 offense, or have been sentenced at any time in another
446 jurisdiction as a habitual offender for such offense;

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

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

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

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

466
467 In making control release eligibility determinations under this
468 subsection, the authority may rely on any document leading to or
469 generated during the course of the criminal proceedings,
470 including, but not limited to, any presentence or postsentence
471 investigation or any information contained in arrest reports

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472 relating to circumstances of the offense.

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