

By Senator Bullard

39-01300-13

20131022

1                   A bill to be entitled  
2           An act relating to the death penalty; amending s.  
3           775.082, F.S.; deleting provisions providing for the  
4           death penalty for capital felonies; deleting  
5           provisions relating to the effect of a declaration by  
6           a court of last resort that the death penalty in a  
7           capital felony is unconstitutional; amending ss. 27.51  
8           and 27.511, F.S.; deleting provisions relating to  
9           representation in death penalty cases; repealing ss.  
10          27.7001, 27.7002, 27.701, 27.702, 27.703, 27.704,  
11          27.705, 27.706, 27.707, 27.708, 27.7081, 27.7091,  
12          27.710, 27.711, and 27.715, F.S., relating to capital  
13          collateral representation; amending s. 119.071, F.S.;  
14          deleting a public records exemption relating to  
15          capital collateral proceedings; amending s. 282.201,  
16          F.S.; conforming a provision to changes made by the  
17          act; amending ss. 775.15 and 790.161, F.S.; deleting  
18          provisions relating to the effect of a declaration by  
19          a court of last resort declaring that the death  
20          penalty in a capital felony is unconstitutional;  
21          repealing s. 913.13, F.S., relating to jurors in  
22          capital cases; repealing s. 921.137, F.S., relating to  
23          prohibiting the imposition of the death sentence upon  
24          a defendant with mental retardation; repealing s.  
25          921.141, F.S., relating to determination of whether to  
26          impose a sentence of death or life imprisonment for a  
27          capital felony; repealing s. 921.142, F.S., relating  
28          to determination of whether to impose a sentence of  
29          death or life imprisonment for a capital drug

39-01300-13

20131022

30 trafficking felony; amending ss. 394.912, 782.04,  
31 782.065, 794.011, and 893.135, F.S.; conforming  
32 provisions to changes made by the act; repealing ss.  
33 922.052, 922.06, 922.07, 922.08, 922.095, 922.10,  
34 922.105, 922.108, 922.11, 922.111, 922.12, 922.14, and  
35 922.15, F.S., relating to issuance of warrant of  
36 execution, stay of execution of death sentence,  
37 proceedings when a person under sentence of death  
38 appears to be insane, proceedings when a person under  
39 sentence of death appears to be pregnant, grounds for  
40 death warrant, execution of death sentence,  
41 prohibition against reduction of death sentence as a  
42 result of determination that a method of execution is  
43 unconstitutional, sentencing orders in capital cases,  
44 regulation of execution, transfer to state prison for  
45 safekeeping before death warrant issued, return of  
46 warrant of execution issued by Governor, sentence of  
47 death unexecuted for unjustifiable reasons, and return  
48 of warrant of execution issued by Supreme Court,  
49 respectively; amending s. 924.055, F.S.; deleting  
50 provisions relating to legislative intent concerning  
51 appeals and postconviction proceedings in death  
52 penalty cases; repealing ss. 924.056 and 924.057,  
53 F.S., relating to commencement of capital  
54 postconviction actions for which sentence of death is  
55 imposed on or after January 14, 2000, and limitation  
56 on postconviction cases in which the death sentence  
57 was imposed before January 14, 2000, respectively;  
58 amending ss. 924.058 and 924.059, F.S.; conforming

39-01300-13

20131022

59 provisions to changes made by the act; amending s.  
60 925.11, F.S.; deleting provisions relating to  
61 preservation of DNA evidence in death penalty cases;  
62 amending s. 945.10, F.S.; deleting a public records  
63 exemption for the identity of executioners; providing  
64 an effective date.

65

66 Be It Enacted by the Legislature of the State of Florida:

67

68 Section 1. Subsections (1) and (2) of section 775.082,  
69 Florida Statutes, are amended to read:

70 775.082 Penalties; applicability of sentencing structures;  
71 mandatory minimum sentences for certain reoffenders previously  
72 released from prison.—

73 (1) A person who has been convicted of a capital felony  
74 shall be ~~punished by death if the proceeding held to determine~~  
75 ~~sentence according to the procedure set forth in s. 921.141~~  
76 ~~results in findings by the court that such person shall be~~  
77 ~~punished by death, otherwise such person shall be punished by~~  
78 ~~life imprisonment and shall be ineligible for parole.~~

79 ~~(2) In the event the death penalty in a capital felony is~~  
80 ~~held to be unconstitutional by the Florida Supreme Court or the~~  
81 ~~United States Supreme Court, the court having jurisdiction over~~  
82 ~~a person previously sentenced to death for a capital felony~~  
83 ~~shall cause such person to be brought before the court, and the~~  
84 ~~court shall sentence such person to life imprisonment as~~  
85 ~~provided in subsection (1). No sentence of death shall be~~  
86 ~~reduced as a result of a determination that a method of~~  
87 ~~execution is held to be unconstitutional under the State~~

39-01300-13

20131022\_\_

88 ~~Constitution or the Constitution of the United States.~~

89 Section 2. Paragraphs (d), (e), and (f) of subsection (1)  
90 of section 27.51, Florida Statutes, are amended to read:

91 27.51 Duties of public defender.—

92 (1) The public defender shall represent, without additional  
93 compensation, any person determined to be indigent under s.  
94 27.52 and:

95 (d) Sought by petition filed in such court to be  
96 involuntarily placed as a mentally ill person under part I of  
97 chapter 394, involuntarily committed as a sexually violent  
98 predator under part V of chapter 394, or involuntarily admitted  
99 to residential services as a person with developmental  
100 disabilities under chapter 393. A public defender shall not  
101 represent any plaintiff in a civil action brought under the  
102 Florida Rules of Civil Procedure, the Federal Rules of Civil  
103 Procedure, or the federal statutes, or represent a petitioner in  
104 a rule challenge under chapter 120, unless specifically  
105 authorized by statute; or

106 ~~(e) Convicted and sentenced to death, for purposes of~~  
107 ~~handling an appeal to the Supreme Court; or~~

108 (e) ~~(f)~~ Is appealing a matter in a case arising under  
109 paragraphs (a)-(d).

110 Section 3. Paragraphs (e), (f), and (g) of subsection (5)  
111 and subsection (8) of section 27.511, Florida Statutes, are  
112 amended to read:

113 27.511 Offices of criminal conflict and civil regional  
114 counsel; legislative intent; qualifications; appointment;  
115 duties.—

116 (5) When the Office of the Public Defender, at any time

39-01300-13

20131022

117 during the representation of two or more defendants, determines  
118 that the interests of those accused are so adverse or hostile  
119 that they cannot all be counseled by the public defender or his  
120 or her staff without a conflict of interest, or that none can be  
121 counseled by the public defender or his or her staff because of  
122 a conflict of interest, and the court grants the public  
123 defender's motion to withdraw, the office of criminal conflict  
124 and civil regional counsel shall be appointed and shall provide  
125 legal services, without additional compensation, to any person  
126 determined to be indigent under s. 27.52, who is:

127 ~~(e) Convicted and sentenced to death, for purposes of~~  
128 ~~handling an appeal to the Supreme Court;~~

129 (e)~~(f)~~ Appealing a matter in a case arising under  
130 paragraphs (a)-(d); or

131 (f)~~(g)~~ Seeking correction, reduction, or modification of a  
132 sentence under Rule 3.800, Florida Rules of Criminal Procedure,  
133 or seeking postconviction relief under Rule 3.850, Florida Rules  
134 of Criminal Procedure, if, in either case, the court determines  
135 that appointment of counsel is necessary to protect a person's  
136 due process rights.

137 (8) The public defender for the judicial circuit specified  
138 in s. 27.51(4) shall, after the record on appeal is transmitted  
139 to the appellate court by the office of criminal conflict and  
140 civil regional counsel which handled the trial and if requested  
141 by the regional counsel for the indicated appellate district,  
142 handle all circuit court appeals authorized pursuant to  
143 paragraph (5) (e)~~(f)~~ within the state courts system and any  
144 authorized appeals to the federal courts required of the  
145 official making the request. If the public defender certifies to

39-01300-13

20131022

146 the court that the public defender has a conflict consistent  
147 with the criteria prescribed in s. 27.5303 and moves to  
148 withdraw, the regional counsel shall handle the appeal, unless  
149 the regional counsel has a conflict, in which case the court  
150 shall appoint private counsel pursuant to s. 27.40.

151 Section 4. Sections 27.7001, 27.7002, 27.701, 27.702,  
152 27.703, 27.704, 27.705, 27.706, 27.707, 27.708, 27.7081,  
153 27.7091, 27.710, 27.711, and 27.715, Florida Statutes, are  
154 repealed.

155 Section 5. Paragraph (d) of subsection (1) of section  
156 119.071, Florida Statutes, is amended to read:

157 119.071 General exemptions from inspection or copying of  
158 public records.—

159 (1) AGENCY ADMINISTRATION.—

160 (d)1. A public record that was prepared by an agency  
161 attorney (including an attorney employed or retained by the  
162 agency or employed or retained by another public officer or  
163 agency to protect or represent the interests of the agency  
164 having custody of the record) or prepared at the attorney's  
165 express direction, that reflects a mental impression,  
166 conclusion, litigation strategy, or legal theory of the attorney  
167 or the agency, and that was prepared exclusively for civil or  
168 criminal litigation or for adversarial administrative  
169 proceedings, or that was prepared in anticipation of imminent  
170 civil or criminal litigation or imminent adversarial  
171 administrative proceedings, is exempt from s. 119.07(1) and s.  
172 24(a), Art. I of the State Constitution until the conclusion of  
173 the litigation or adversarial administrative proceedings. ~~For~~  
174 ~~purposes of capital collateral litigation as set forth in s.~~

39-01300-13

20131022\_\_

175 ~~27.7001, the Attorney General's office is entitled to claim this~~  
176 ~~exemption for those public records prepared for direct appeal as~~  
177 ~~well as for all capital collateral litigation after direct~~  
178 ~~appeal until execution of sentence or imposition of a life~~  
179 ~~sentence.~~

180       2. This exemption is not waived by the release of such  
181 public record to another public employee or officer of the same  
182 agency or any person consulted by the agency attorney. When  
183 asserting the right to withhold a public record pursuant to this  
184 paragraph, the agency shall identify the potential parties to  
185 any such criminal or civil litigation or adversarial  
186 administrative proceedings. If a court finds that the document  
187 or other record has been improperly withheld under this  
188 paragraph, the party seeking access to such document or record  
189 shall be awarded reasonable attorney's fees and costs in  
190 addition to any other remedy ordered by the court.

191       Section 6. Paragraph (k) of subsection (4) of section  
192 282.201, Florida Statutes, is amended to read:

193       282.201 State data center system; agency duties and  
194 limitations.—A state data center system that includes all  
195 primary data centers, other nonprimary data centers, and  
196 computing facilities, and that provides an enterprise  
197 information technology service as defined in s. 282.0041, is  
198 established.

199       (4) SCHEDULE FOR CONSOLIDATIONS OF AGENCY DATA CENTERS.—

200       (k) The Department of Law Enforcement, the Department of  
201 the Lottery's Gaming System, Systems Design and Development in  
202 the Office of Policy and Budget, and the State Board of  
203 Administration, state attorneys, public defenders, criminal

39-01300-13

20131022\_\_

204 conflict and civil regional counsel, ~~capital collateral regional~~  
205 ~~counsel~~, the Florida Clerks of Court Operations Corporation, and  
206 the Florida Housing Finance Corporation are exempt from data  
207 center consolidation under this section.

208 Section 7. Subsection (1) of section 775.15, Florida  
209 Statutes, is amended to read:

210 775.15 Time limitations; general time limitations;  
211 exceptions.—

212 (1) A prosecution for a capital felony, a life felony, or a  
213 felony that resulted in a death may be commenced at any time. ~~If~~  
214 ~~the death penalty is held to be unconstitutional by the Florida~~  
215 ~~Supreme Court or the United States Supreme Court, all crimes~~  
216 ~~designated as capital felonies shall be considered life felonies~~  
217 ~~for the purposes of this section, and prosecution for such~~  
218 ~~crimes may be commenced at any time.~~

219 Section 8. Subsection (4) of section 790.161, Florida  
220 Statutes, is amended to read:

221 790.161 Making, possessing, throwing, projecting, placing,  
222 or discharging any destructive device or attempt so to do,  
223 felony; penalties.—A person who willfully and unlawfully makes,  
224 possesses, throws, projects, places, discharges, or attempts to  
225 make, possess, throw, project, place, or discharge any  
226 destructive device:

227 (4) If the act results in the death of another person,  
228 commits a capital felony, punishable as provided in s. 775.082.  
229 ~~In the event the death penalty in a capital felony is held to be~~  
230 ~~unconstitutional by the Florida Supreme Court or the United~~  
231 ~~States Supreme Court, the court having jurisdiction over a~~  
232 ~~person previously sentenced to death for a capital felony shall~~



39-01300-13

20131022

233 ~~cause such person to be brought before the court, and the court~~  
 234 ~~shall sentence such person to life imprisonment if convicted of~~  
 235 ~~murder in the first degree or of a capital felony under this~~  
 236 ~~subsection, and such person shall be ineligible for parole. No~~  
 237 ~~sentence of death shall be reduced as a result of a~~  
 238 ~~determination that a method of execution is held to be~~  
 239 ~~unconstitutional under the State Constitution or the~~  
 240 ~~Constitution of the United States.~~

241 Section 9. Section 913.13, Florida Statutes, is repealed.

242 Section 10. Section 921.137, Florida Statutes, is repealed.

243 Section 11. Sections 921.141 and 921.142, Florida Statutes,  
 244 are repealed.

245 Section 12. Subsection (9) of section 394.912, Florida  
 246 Statutes, is amended to read:

247 394.912 Definitions.—As used in this part, the term:

248 (9) "Sexually violent offense" means:

249 (a) Murder of a human being while engaged in sexual battery  
 250 in violation of s. 782.04(1)(b) ~~782.04(1)(a)2.~~;

251 (b) Kidnapping of a child under the age of 13 and, in the  
 252 course of that offense, committing:

253 1. Sexual battery; or

254 2. A lewd, lascivious, or indecent assault or act upon or  
 255 in the presence of the child;

256 (c) Committing the offense of false imprisonment upon a  
 257 child under the age of 13 and, in the course of that offense,  
 258 committing:

259 1. Sexual battery; or

260 2. A lewd, lascivious, or indecent assault or act upon or  
 261 in the presence of the child;

39-01300-13

20131022\_\_

262 (d) Sexual battery in violation of s. 794.011;

263 (e) Lewd, lascivious, or indecent assault or act upon or in  
264 presence of the child in violation of s. 800.04 or s.  
265 847.0135(5);

266 (f) An attempt, criminal solicitation, or conspiracy, in  
267 violation of s. 777.04, of a sexually violent offense;

268 (g) Any conviction for a felony offense in effect at any  
269 time before October 1, 1998, which is comparable to a sexually  
270 violent offense under paragraphs (a)-(f) or any federal  
271 conviction or conviction in another state for a felony offense  
272 that in this state would be a sexually violent offense; or

273 (h) Any criminal act that, either at the time of sentencing  
274 for the offense or subsequently during civil commitment  
275 proceedings under this part, has been determined beyond a  
276 reasonable doubt to have been sexually motivated.

277 Section 13. Subsection (1) of section 782.04, Florida  
278 Statutes, is amended to read:

279 782.04 Murder.—

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

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

283 (b)2. When committed by a person engaged in the  
284 perpetration of, or in the attempt to perpetrate, any:

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

286 2.b. Arson,

287 3.e. Sexual battery,

288 4.d. Robbery,

289 5.e. Burglary,

290 6.f. Kidnapping,

39-01300-13

20131022\_\_

291        ~~7.g.~~ Escape,

292        ~~8.h.~~ Aggravated child abuse,

293        ~~9.i.~~ Aggravated abuse of an elderly person or disabled

294 adult,

295        ~~10.j.~~ Aircraft piracy,

296        ~~11.k.~~ Unlawful throwing, placing, or discharging of a

297 destructive device or bomb,

298        ~~12.l.~~ Carjacking,

299        ~~13.m.~~ Home-invasion robbery,

300        ~~14.n.~~ Aggravated stalking,

301        ~~15.o.~~ Murder of another human being,

302        ~~16.p.~~ Resisting an officer with violence to his or her

303 person,

304        ~~17.q.~~ Aggravated fleeing or eluding with serious bodily

305 injury or death,

306        ~~18.r.~~ Felony that is an act of terrorism or is in

307 furtherance of an act of terrorism; or

308        ~~(c)3.~~ Which resulted from the unlawful distribution of any

309 substance controlled under s. 893.03(1), cocaine as described in

310 s. 893.03(2) (a)4., opium or any synthetic or natural salt,

311 compound, derivative, or preparation of opium, or methadone by a

312 person 18 years of age or older, when such drug is proven to be

313 the proximate cause of the death of the user,

314

315 is murder in the first degree and constitutes a capital felony,

316 punishable as provided in s. 775.082.

317        ~~(b) In all cases under this section, the procedure set~~

318 ~~forth in s. 921.141 shall be followed in order to determine~~

319 ~~sentence of death or life imprisonment.~~

39-01300-13

20131022

320 Section 14. Section 782.065, Florida Statutes, is amended  
321 to read:

322 782.065 Murder; law enforcement officer, correctional  
323 officer, correctional probation officer.—Notwithstanding ss.  
324 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant  
325 shall be sentenced to life imprisonment without eligibility for  
326 release upon findings by the trier of fact that, beyond a  
327 reasonable doubt:

328 (1) The defendant committed murder in the first degree in  
329 violation of s. 782.04(1) and a death sentence was not imposed;  
330 murder in the second or third degree in violation of s.  
331 782.04(2), (3), or (4); attempted murder in the first or second  
332 degree in violation of s. 782.04(1)(a) ~~782.04(1)(a)1~~ or (2); or  
333 attempted felony murder in violation of s. 782.051; and

334 (2) The victim of any offense described in subsection (1)  
335 was a law enforcement officer, part-time law enforcement  
336 officer, auxiliary law enforcement officer, correctional  
337 officer, part-time correctional officer, auxiliary correctional  
338 officer, correctional probation officer, part-time correctional  
339 probation officer, or auxiliary correctional probation officer,  
340 as those terms are defined in s. 943.10, engaged in the lawful  
341 performance of a legal duty.

342 Section 15. Paragraph (a) of subsection (2) of section  
343 794.011, Florida Statutes, is amended to read:

344 794.011 Sexual battery.—

345 (2) (a) A person 18 years of age or older who commits sexual  
346 battery upon, or in an attempt to commit sexual battery injures  
347 the sexual organs of, a person less than 12 years of age commits  
348 a capital felony, punishable as provided in s. ~~ss.~~ 775.082 and

39-01300-13

20131022\_\_

349 ~~921.141.~~

350 Section 16. Paragraphs (b) through (l) of subsection (1) of  
351 section 893.135, Florida Statutes, are amended to read:

352 893.135 Trafficking; mandatory sentences; suspension or  
353 reduction of sentences; conspiracy to engage in trafficking.—

354 (1) Except as authorized in this chapter or in chapter 499  
355 and notwithstanding the provisions of s. 893.13:

356 (b)1. Any person who knowingly sells, purchases,  
357 manufactures, delivers, or brings into this state, or who is  
358 knowingly in actual or constructive possession of, 28 grams or  
359 more of cocaine, as described in s. 893.03(2)(a)4., or of any  
360 mixture containing cocaine, but less than 150 kilograms of  
361 cocaine or any such mixture, commits a felony of the first  
362 degree, which felony shall be known as "trafficking in cocaine,"  
363 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
364 If the quantity involved:

365 a. Is 28 grams or more, but less than 200 grams, such  
366 person shall be sentenced to a mandatory minimum term of  
367 imprisonment of 3 years, and the defendant shall be ordered to  
368 pay a fine of \$50,000.

369 b. Is 200 grams or more, but less than 400 grams, such  
370 person shall be sentenced to a mandatory minimum term of  
371 imprisonment of 7 years, and the defendant shall be ordered to  
372 pay a fine of \$100,000.

373 c. Is 400 grams or more, but less than 150 kilograms, such  
374 person shall be sentenced to a mandatory minimum term of  
375 imprisonment of 15 calendar years and pay a fine of \$250,000.

376 2. Any person who knowingly sells, purchases, manufactures,  
377 delivers, or brings into this state, or who is knowingly in

39-01300-13

20131022

378 actual or constructive possession of, 150 kilograms or more of  
379 cocaine, as described in s. 893.03(2)(a)4., commits the first  
380 degree felony of trafficking in cocaine. A person who has been  
381 convicted of the first degree felony of trafficking in cocaine  
382 under this subparagraph shall be punished by life imprisonment  
383 and is ineligible for any form of discretionary early release  
384 except pardon or executive clemency or conditional medical  
385 release under s. 947.149. However, if the court determines that,  
386 in addition to committing any act specified in this paragraph:

387 a. The person intentionally killed an individual or  
388 counseled, commanded, induced, procured, or caused the  
389 intentional killing of an individual and such killing was the  
390 result; or

391 b. The person's conduct in committing that act led to a  
392 natural, though not inevitable, lethal result,

393  
394 such person commits the capital felony of trafficking in  
395 cocaine, punishable as provided in s. ss. 775.082 and ~~921.142~~.  
396 Any person sentenced for a capital felony under this paragraph  
397 shall also be sentenced to pay the maximum fine provided under  
398 subparagraph 1.

399 3. Any person who knowingly brings into this state 300  
400 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,  
401 and who knows that the probable result of such importation would  
402 be the death of any person, commits capital importation of  
403 cocaine, a capital felony punishable as provided in s. ss.  
404 775.082 and ~~921.142~~. Any person sentenced for a capital felony  
405 under this paragraph shall also be sentenced to pay the maximum  
406 fine provided under subparagraph 1.

39-01300-13

20131022

407 (c)1. Any person who knowingly sells, purchases,  
408 manufactures, delivers, or brings into this state, or who is  
409 knowingly in actual or constructive possession of, 4 grams or  
410 more of any morphine, opium, oxycodone, hydrocodone,  
411 hydromorphone, or any salt, derivative, isomer, or salt of an  
412 isomer thereof, including heroin, as described in s.  
413 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more  
414 of any mixture containing any such substance, but less than 30  
415 kilograms of such substance or mixture, commits a felony of the  
416 first degree, which felony shall be known as "trafficking in  
417 illegal drugs," punishable as provided in s. 775.082, s.  
418 775.083, or s. 775.084. If the quantity involved:

419 a. Is 4 grams or more, but less than 14 grams, such person  
420 shall be sentenced to a mandatory minimum term of imprisonment  
421 of 3 years, and the defendant shall be ordered to pay a fine of  
422 \$50,000.

423 b. Is 14 grams or more, but less than 28 grams, such person  
424 shall be sentenced to a mandatory minimum term of imprisonment  
425 of 15 years, and the defendant shall be ordered to pay a fine of  
426 \$100,000.

427 c. Is 28 grams or more, but less than 30 kilograms, such  
428 person shall be sentenced to a mandatory minimum term of  
429 imprisonment of 25 calendar years and pay a fine of \$500,000.

430 2. Any person who knowingly sells, purchases, manufactures,  
431 delivers, or brings into this state, or who is knowingly in  
432 actual or constructive possession of, 30 kilograms or more of  
433 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or  
434 any salt, derivative, isomer, or salt of an isomer thereof,  
435 including heroin, as described in s. 893.03(1)(b), (2)(a),

39-01300-13

20131022\_\_

436 (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture  
437 containing any such substance, commits the first degree felony  
438 of trafficking in illegal drugs. A person who has been convicted  
439 of the first degree felony of trafficking in illegal drugs under  
440 this subparagraph shall be punished by life imprisonment and is  
441 ineligible for any form of discretionary early release except  
442 pardon or executive clemency or conditional medical release  
443 under s. 947.149. However, if the court determines that, in  
444 addition to committing any act specified in this paragraph:

445 a. The person intentionally killed an individual or  
446 counseled, commanded, induced, procured, or caused the  
447 intentional killing of an individual and such killing was the  
448 result; or

449 b. The person's conduct in committing that act led to a  
450 natural, though not inevitable, lethal result,

451  
452 such person commits the capital felony of trafficking in illegal  
453 drugs, punishable as provided in s. ss. 775.082 ~~and 921.142~~. Any  
454 person sentenced for a capital felony under this paragraph shall  
455 also be sentenced to pay the maximum fine provided under  
456 subparagraph 1.

457 3. Any person who knowingly brings into this state 60  
458 kilograms or more of any morphine, opium, oxycodone,  
459 hydrocodone, hydromorphone, or any salt, derivative, isomer, or  
460 salt of an isomer thereof, including heroin, as described in s.  
461 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or  
462 more of any mixture containing any such substance, and who knows  
463 that the probable result of such importation would be the death  
464 of any person, commits capital importation of illegal drugs, a



39-01300-13

20131022

465 capital felony punishable as provided in s. ss. 775.082 and  
466 ~~921.142~~. Any person sentenced for a capital felony under this  
467 paragraph shall also be sentenced to pay the maximum fine  
468 provided under subparagraph 1.

469 (d)1. Any person who knowingly sells, purchases,  
470 manufactures, delivers, or brings into this state, or who is  
471 knowingly in actual or constructive possession of, 28 grams or  
472 more of phencyclidine or of any mixture containing  
473 phencyclidine, as described in s. 893.03(2)(b), commits a felony  
474 of the first degree, which felony shall be known as "trafficking  
475 in phencyclidine," punishable as provided in s. 775.082, s.  
476 775.083, or s. 775.084. If the quantity involved:

477 a. Is 28 grams or more, but less than 200 grams, such  
478 person shall be sentenced to a mandatory minimum term of  
479 imprisonment of 3 years, and the defendant shall be ordered to  
480 pay a fine of \$50,000.

481 b. Is 200 grams or more, but less than 400 grams, such  
482 person shall be sentenced to a mandatory minimum term of  
483 imprisonment of 7 years, and the defendant shall be ordered to  
484 pay a fine of \$100,000.

485 c. Is 400 grams or more, such person shall be sentenced to  
486 a mandatory minimum term of imprisonment of 15 calendar years  
487 and pay a fine of \$250,000.

488 2. Any person who knowingly brings into this state 800  
489 grams or more of phencyclidine or of any mixture containing  
490 phencyclidine, as described in s. 893.03(2)(b), and who knows  
491 that the probable result of such importation would be the death  
492 of any person commits capital importation of phencyclidine, a  
493 capital felony punishable as provided in s. ss. 775.082 and

39-01300-13

20131022

494 ~~921.142~~. Any person sentenced for a capital felony under this  
495 paragraph shall also be sentenced to pay the maximum fine  
496 provided under subparagraph 1.

497 (e)1. Any person who knowingly sells, purchases,  
498 manufactures, delivers, or brings into this state, or who is  
499 knowingly in actual or constructive possession of, 200 grams or  
500 more of methaqualone or of any mixture containing methaqualone,  
501 as described in s. 893.03(1)(d), commits a felony of the first  
502 degree, which felony shall be known as "trafficking in  
503 methaqualone," punishable as provided in s. 775.082, s. 775.083,  
504 or s. 775.084. If the quantity involved:

505 a. Is 200 grams or more, but less than 5 kilograms, such  
506 person shall be sentenced to a mandatory minimum term of  
507 imprisonment of 3 years, and the defendant shall be ordered to  
508 pay a fine of \$50,000.

509 b. Is 5 kilograms or more, but less than 25 kilograms, such  
510 person shall be sentenced to a mandatory minimum term of  
511 imprisonment of 7 years, and the defendant shall be ordered to  
512 pay a fine of \$100,000.

513 c. Is 25 kilograms or more, such person shall be sentenced  
514 to a mandatory minimum term of imprisonment of 15 calendar years  
515 and pay a fine of \$250,000.

516 2. Any person who knowingly brings into this state 50  
517 kilograms or more of methaqualone or of any mixture containing  
518 methaqualone, as described in s. 893.03(1)(d), and who knows  
519 that the probable result of such importation would be the death  
520 of any person commits capital importation of methaqualone, a  
521 capital felony punishable as provided in s. ss. 775.082 ~~and~~  
522 ~~921.142~~. Any person sentenced for a capital felony under this

39-01300-13

20131022

523 paragraph shall also be sentenced to pay the maximum fine  
524 provided under subparagraph 1.

525 (f)1. Any person who knowingly sells, purchases,  
526 manufactures, delivers, or brings into this state, or who is  
527 knowingly in actual or constructive possession of, 14 grams or  
528 more of amphetamine, as described in s. 893.03(2)(c)2., or  
529 methamphetamine, as described in s. 893.03(2)(c)4., or of any  
530 mixture containing amphetamine or methamphetamine, or  
531 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine  
532 in conjunction with other chemicals and equipment utilized in  
533 the manufacture of amphetamine or methamphetamine, commits a  
534 felony of the first degree, which felony shall be known as  
535 "trafficking in amphetamine," punishable as provided in s.  
536 775.082, s. 775.083, or s. 775.084. If the quantity involved:

537 a. Is 14 grams or more, but less than 28 grams, such person  
538 shall be sentenced to a mandatory minimum term of imprisonment  
539 of 3 years, and the defendant shall be ordered to pay a fine of  
540 \$50,000.

541 b. Is 28 grams or more, but less than 200 grams, such  
542 person shall be sentenced to a mandatory minimum term of  
543 imprisonment of 7 years, and the defendant shall be ordered to  
544 pay a fine of \$100,000.

545 c. Is 200 grams or more, such person shall be sentenced to  
546 a mandatory minimum term of imprisonment of 15 calendar years  
547 and pay a fine of \$250,000.

548 2. Any person who knowingly manufactures or brings into  
549 this state 400 grams or more of amphetamine, as described in s.  
550 893.03(2)(c)2., or methamphetamine, as described in s.  
551 893.03(2)(c)4., or of any mixture containing amphetamine or

39-01300-13

20131022\_\_

552 methamphetamine, or phenylacetone, phenylacetic acid,  
553 pseudoephedrine, or ephedrine in conjunction with other  
554 chemicals and equipment used in the manufacture of amphetamine  
555 or methamphetamine, and who knows that the probable result of  
556 such manufacture or importation would be the death of any person  
557 commits capital manufacture or importation of amphetamine, a  
558 capital felony punishable as provided in s. ss. 775.082 ~~and~~  
559 ~~921.142~~. Any person sentenced for a capital felony under this  
560 paragraph shall also be sentenced to pay the maximum fine  
561 provided under subparagraph 1.

562 (g)1. Any person who knowingly sells, purchases,  
563 manufactures, delivers, or brings into this state, or who is  
564 knowingly in actual or constructive possession of, 4 grams or  
565 more of flunitrazepam or any mixture containing flunitrazepam as  
566 described in s. 893.03(1)(a) commits a felony of the first  
567 degree, which felony shall be known as "trafficking in  
568 flunitrazepam," punishable as provided in s. 775.082, s.  
569 775.083, or s. 775.084. If the quantity involved:

570 a. Is 4 grams or more but less than 14 grams, such person  
571 shall be sentenced to a mandatory minimum term of imprisonment  
572 of 3 years, and the defendant shall be ordered to pay a fine of  
573 \$50,000.

574 b. Is 14 grams or more but less than 28 grams, such person  
575 shall be sentenced to a mandatory minimum term of imprisonment  
576 of 7 years, and the defendant shall be ordered to pay a fine of  
577 \$100,000.

578 c. Is 28 grams or more but less than 30 kilograms, such  
579 person shall be sentenced to a mandatory minimum term of  
580 imprisonment of 25 calendar years and pay a fine of \$500,000.

39-01300-13

20131022

581           2. Any person who knowingly sells, purchases, manufactures,  
582 delivers, or brings into this state or who is knowingly in  
583 actual or constructive possession of 30 kilograms or more of  
584 flunitrazepam or any mixture containing flunitrazepam as  
585 described in s. 893.03(1) (a) commits the first degree felony of  
586 trafficking in flunitrazepam. A person who has been convicted of  
587 the first degree felony of trafficking in flunitrazepam under  
588 this subparagraph shall be punished by life imprisonment and is  
589 ineligible for any form of discretionary early release except  
590 pardon or executive clemency or conditional medical release  
591 under s. 947.149. However, if the court determines that, in  
592 addition to committing any act specified in this paragraph:

593           a. The person intentionally killed an individual or  
594 counseled, commanded, induced, procured, or caused the  
595 intentional killing of an individual and such killing was the  
596 result; or

597           b. The person's conduct in committing that act led to a  
598 natural, though not inevitable, lethal result,

599  
600 such person commits the capital felony of trafficking in  
601 flunitrazepam, punishable as provided in s. 775.082 ~~and~~  
602 ~~921.142~~. Any person sentenced for a capital felony under this  
603 paragraph shall also be sentenced to pay the maximum fine  
604 provided under subparagraph 1.

605           (h)1. Any person who knowingly sells, purchases,  
606 manufactures, delivers, or brings into this state, or who is  
607 knowingly in actual or constructive possession of, 1 kilogram or  
608 more of gamma-hydroxybutyric acid (GHB), as described in s.  
609 893.03(1) (d), or any mixture containing gamma-hydroxybutyric

39-01300-13

20131022

610 acid (GHB), commits a felony of the first degree, which felony  
611 shall be known as "trafficking in gamma-hydroxybutyric acid  
612 (GHB)," punishable as provided in s. 775.082, s. 775.083, or s.  
613 775.084. If the quantity involved:

614 a. Is 1 kilogram or more but less than 5 kilograms, such  
615 person shall be sentenced to a mandatory minimum term of  
616 imprisonment of 3 years, and the defendant shall be ordered to  
617 pay a fine of \$50,000.

618 b. Is 5 kilograms or more but less than 10 kilograms, such  
619 person shall be sentenced to a mandatory minimum term of  
620 imprisonment of 7 years, and the defendant shall be ordered to  
621 pay a fine of \$100,000.

622 c. Is 10 kilograms or more, such person shall be sentenced  
623 to a mandatory minimum term of imprisonment of 15 calendar years  
624 and pay a fine of \$250,000.

625 2. Any person who knowingly manufactures or brings into  
626 this state 150 kilograms or more of gamma-hydroxybutyric acid  
627 (GHB), as described in s. 893.03(1)(d), or any mixture  
628 containing gamma-hydroxybutyric acid (GHB), and who knows that  
629 the probable result of such manufacture or importation would be  
630 the death of any person commits capital manufacture or  
631 importation of gamma-hydroxybutyric acid (GHB), a capital felony  
632 punishable as provided in s. ss. 775.082 ~~and 921.142~~. Any person  
633 sentenced for a capital felony under this paragraph shall also  
634 be sentenced to pay the maximum fine provided under subparagraph  
635 1.

636 (i)1. Any person who knowingly sells, purchases,  
637 manufactures, delivers, or brings into this state, or who is  
638 knowingly in actual or constructive possession of, 1 kilogram or

39-01300-13

20131022

639 more of gamma-butyrolactone (GBL), as described in s.  
640 893.03(1)(d), or any mixture containing gamma-butyrolactone  
641 (GBL), commits a felony of the first degree, which felony shall  
642 be known as "trafficking in gamma-butyrolactone (GBL),"           
643 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
644 If the quantity involved:

645       a. Is 1 kilogram or more but less than 5 kilograms, such  
646 person shall be sentenced to a mandatory minimum term of  
647 imprisonment of 3 years, and the defendant shall be ordered to  
648 pay a fine of \$50,000.

649       b. Is 5 kilograms or more but less than 10 kilograms, such  
650 person shall be sentenced to a mandatory minimum term of  
651 imprisonment of 7 years, and the defendant shall be ordered to  
652 pay a fine of \$100,000.

653       c. Is 10 kilograms or more, such person shall be sentenced  
654 to a mandatory minimum term of imprisonment of 15 calendar years  
655 and pay a fine of \$250,000.

656       2. Any person who knowingly manufactures or brings into the  
657 state 150 kilograms or more of gamma-butyrolactone (GBL), as  
658 described in s. 893.03(1)(d), or any mixture containing gamma-  
659 butyrolactone (GBL), and who knows that the probable result of  
660 such manufacture or importation would be the death of any person  
661 commits capital manufacture or importation of gamma-  
662 butyrolactone (GBL), a capital felony punishable as provided in  
663 s. ~~ss.~~ 775.082 and ~~921.142~~. Any person sentenced for a capital  
664 felony under this paragraph shall also be sentenced to pay the  
665 maximum fine provided under subparagraph 1.

666       (j)1. Any person who knowingly sells, purchases,  
667 manufactures, delivers, or brings into this state, or who is

39-01300-13

20131022\_\_

668 knowingly in actual or constructive possession of, 1 kilogram or  
669 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of  
670 any mixture containing 1,4-Butanediol, commits a felony of the  
671 first degree, which felony shall be known as "trafficking in  
672 1,4-Butanediol," punishable as provided in s. 775.082, s.  
673 775.083, or s. 775.084. If the quantity involved:

674 a. Is 1 kilogram or more, but less than 5 kilograms, such  
675 person shall be sentenced to a mandatory minimum term of  
676 imprisonment of 3 years, and the defendant shall be ordered to  
677 pay a fine of \$50,000.

678 b. Is 5 kilograms or more, but less than 10 kilograms, such  
679 person shall be sentenced to a mandatory minimum term of  
680 imprisonment of 7 years, and the defendant shall be ordered to  
681 pay a fine of \$100,000.

682 c. Is 10 kilograms or more, such person shall be sentenced  
683 to a mandatory minimum term of imprisonment of 15 calendar years  
684 and pay a fine of \$500,000.

685 2. Any person who knowingly manufactures or brings into  
686 this state 150 kilograms or more of 1,4-Butanediol as described  
687 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,  
688 and who knows that the probable result of such manufacture or  
689 importation would be the death of any person commits capital  
690 manufacture or importation of 1,4-Butanediol, a capital felony  
691 punishable as provided in s. ss. 775.082 ~~and 921.142~~. Any person  
692 sentenced for a capital felony under this paragraph shall also  
693 be sentenced to pay the maximum fine provided under subparagraph  
694 1.

695 (k)1. Any person who knowingly sells, purchases,  
696 manufactures, delivers, or brings into this state, or who is



39-01300-13

20131022

697 knowingly in actual or constructive possession of, 10 grams or  
698 more of any of the following substances described in s.

699 893.03(1) (a) or (c):

- 700 a. 3,4-Methylenedioxymethamphetamine (MDMA);  
701 b. 4-Bromo-2,5-dimethoxyamphetamine;  
702 c. 4-Bromo-2,5-dimethoxyphenethylamine;  
703 d. 2,5-Dimethoxyamphetamine;  
704 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);  
705 f. N-ethylamphetamine;  
706 g. N-Hydroxy-3,4-methylenedioxyamphetamine;  
707 h. 5-Methoxy-3,4-methylenedioxyamphetamine;  
708 i. 4-methoxyamphetamine;  
709 j. 4-methoxymethamphetamine;  
710 k. 4-Methyl-2,5-dimethoxyamphetamine;  
711 l. 3,4-Methylenedioxy-N-ethylamphetamine;  
712 m. 3,4-Methylenedioxyamphetamine;  
713 n. N,N-dimethylamphetamine; or  
714 o. 3,4,5-Trimethoxyamphetamine,

715  
716 individually or in any combination of or any mixture containing  
717 any substance listed in sub-subparagraphs a.-o., commits a  
718 felony of the first degree, which felony shall be known as  
719 "trafficking in Phenethylamines," punishable as provided in s.  
720 775.082, s. 775.083, or s. 775.084.

721 2. If the quantity involved:

- 722 a. Is 10 grams or more but less than 200 grams, such person  
723 shall be sentenced to a mandatory minimum term of imprisonment  
724 of 3 years, and the defendant shall be ordered to pay a fine of  
725 \$50,000.

39-01300-13

20131022\_\_

726           b. Is 200 grams or more, but less than 400 grams, such  
727 person shall be sentenced to a mandatory minimum term of  
728 imprisonment of 7 years, and the defendant shall be ordered to  
729 pay a fine of \$100,000.

730           c. Is 400 grams or more, such person shall be sentenced to  
731 a mandatory minimum term of imprisonment of 15 calendar years  
732 and pay a fine of \$250,000.

733           3. Any person who knowingly manufactures or brings into  
734 this state 30 kilograms or more of any of the following  
735 substances described in s. 893.03(1) (a) or (c):

- 736           a. 3,4-Methylenedioxyamphetamine (MDMA);  
737           b. 4-Bromo-2,5-dimethoxyamphetamine;  
738           c. 4-Bromo-2,5-dimethoxyphenethylamine;  
739           d. 2,5-Dimethoxyamphetamine;  
740           e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);  
741           f. N-ethylamphetamine;  
742           g. N-Hydroxy-3,4-methylenedioxyamphetamine;  
743           h. 5-Methoxy-3,4-methylenedioxyamphetamine;  
744           i. 4-methoxyamphetamine;  
745           j. 4-methoxymethamphetamine;  
746           k. 4-Methyl-2,5-dimethoxyamphetamine;  
747           l. 3,4-Methylenedioxy-N-ethylamphetamine;  
748           m. 3,4-Methylenedioxyamphetamine;  
749           n. N,N-dimethylamphetamine; or  
750           o. 3,4,5-Trimethoxyamphetamine,

751  
752 individually or in any combination of or any mixture containing  
753 any substance listed in sub-subparagraphs a.-o., and who knows  
754 that the probable result of such manufacture or importation

39-01300-13

20131022

755 would be the death of any person commits capital manufacture or  
756 importation of Phenethylamines, a capital felony punishable as  
757 provided in s. ss. 775.082 and 921.142. Any person sentenced for  
758 a capital felony under this paragraph shall also be sentenced to  
759 pay the maximum fine provided under subparagraph 1.

760 (1)1. Any person who knowingly sells, purchases,  
761 manufactures, delivers, or brings into this state, or who is  
762 knowingly in actual or constructive possession of, 1 gram or  
763 more of lysergic acid diethylamide (LSD) as described in s.  
764 893.03(1)(c), or of any mixture containing lysergic acid  
765 diethylamide (LSD), commits a felony of the first degree, which  
766 felony shall be known as "trafficking in lysergic acid  
767 diethylamide (LSD)," punishable as provided in s. 775.082, s.  
768 775.083, or s. 775.084. If the quantity involved:

769 a. Is 1 gram or more, but less than 5 grams, such person  
770 shall be sentenced to a mandatory minimum term of imprisonment  
771 of 3 years, and the defendant shall be ordered to pay a fine of  
772 \$50,000.

773 b. Is 5 grams or more, but less than 7 grams, such person  
774 shall be sentenced to a mandatory minimum term of imprisonment  
775 of 7 years, and the defendant shall be ordered to pay a fine of  
776 \$100,000.

777 c. Is 7 grams or more, such person shall be sentenced to a  
778 mandatory minimum term of imprisonment of 15 calendar years and  
779 pay a fine of \$500,000.

780 2. Any person who knowingly manufactures or brings into  
781 this state 7 grams or more of lysergic acid diethylamide (LSD)  
782 as described in s. 893.03(1)(c), or any mixture containing  
783 lysergic acid diethylamide (LSD), and who knows that the

39-01300-13

20131022

784 probable result of such manufacture or importation would be the  
785 death of any person commits capital manufacture or importation  
786 of lysergic acid diethylamide (LSD), a capital felony punishable  
787 as provided in s. ss. 775.082 and 921.142. Any person sentenced  
788 for a capital felony under this paragraph shall also be  
789 sentenced to pay the maximum fine provided under subparagraph 1.

790 Section 17. Sections 922.052, 922.06, 922.07, 922.08,  
791 922.095, 922.10, 922.105, 922.108, 922.11, 922.111, 922.12,  
792 922.14, and 922.15, Florida Statutes, are repealed.

793 Section 18. Section 924.055, Florida Statutes, is amended  
794 to read:

795 924.055 Postconviction review in capital cases; legislative  
796 findings and intent.—

797 ~~(1) It is the intent of the Legislature to reduce delays in~~  
798 ~~capital cases and to ensure that all appeals and postconviction~~  
799 ~~actions in capital cases are resolved within 5 years after the~~  
800 ~~date a sentence of death is imposed in the circuit court. All~~  
801 ~~capital postconviction actions must be filed as early as~~  
802 ~~possible after the imposition of a sentence of death which may~~  
803 ~~be during a direct appeal of the conviction and sentence. A~~  
804 ~~person sentenced to death or that person's capital~~  
805 ~~postconviction counsel must file any postconviction legal action~~  
806 ~~in compliance with the statutes of limitation established in s.~~  
807 ~~924.056 and elsewhere in this chapter. Except as expressly~~  
808 ~~allowed by s. 924.056(5), a person sentenced to death or that~~  
809 ~~person's capital postconviction counsel may not file more than~~  
810 ~~one postconviction action in a sentencing court and one appeal~~  
811 ~~therefrom to the Florida Supreme Court, unless authorized by~~  
812 ~~law.~~

39-01300-13

20131022

813           ~~(2)~~ It is the ~~further~~ intent of the Legislature that no  
814 state resources be expended in violation of this act. In the  
815 event that any state employee or party contracting with the  
816 state violates the provisions of this act, the Attorney General  
817 shall deliver to the Speaker of the House of Representatives and  
818 the President of the Senate a copy of any court pleading or  
819 order that describes or adjudicates a violation.

820           Section 19. Sections 924.056 and 924.057, Florida Statutes,  
821 are repealed.

822           Section 20. Subsection (1) of section 924.058, Florida  
823 Statutes, is amended to read:

824           924.058 Capital postconviction claims.—This section shall  
825 regulate the procedures in actions for capital postconviction  
826 relief commencing after the effective date of this act unless  
827 and until such procedures are revised by rule or rules adopted  
828 by the Florida Supreme Court which specifically reference this  
829 section.

830           (1) The defendant or the defendant's capital postconviction  
831 counsel shall not file more than one capital postconviction  
832 action in the sentencing court, one appeal therefrom in the  
833 Florida Supreme Court, and one original capital postconviction  
834 action alleging the ineffectiveness of direct appeal counsel in  
835 the Florida Supreme Court, ~~except as expressly allowed by s.~~  
836 ~~924.056(5).~~

837           Section 21. Subsection (8) of section 924.059, Florida  
838 Statutes, is amended to read:

839           924.059 Time limitations and judicial review in capital  
840 postconviction actions.—This section shall regulate the  
841 procedures in actions for capital postconviction relief

39-01300-13

20131022

842 commencing after the effective date of this act unless and until  
843 such procedures are revised by rule or rules adopted by the  
844 Florida Supreme Court which specifically reference this section.

845 (8) A capital postconviction action filed in violation of  
846 the time limitations provided by statute is barred, and all  
847 claims raised therein are waived. ~~A state court shall not~~  
848 ~~consider any capital postconviction action filed in violation of~~  
849 ~~s. 924.056 or s. 924.057.~~ The Attorney General shall deliver to  
850 the Governor, the President of the Senate, and the Speaker of  
851 the House of Representatives a copy of any pleading or order  
852 that alleges or adjudicates any violation of this provision.

853 Section 22. Subsection (4) of section 925.11, Florida  
854 Statutes, is amended to read:

855 925.11 Postsentencing DNA testing.—

856 (4) PRESERVATION OF EVIDENCE.—

857 ~~(a)~~ Governmental entities that may be in possession of any  
858 physical evidence in the case, including, but not limited to,  
859 any investigating law enforcement agency, the clerk of the  
860 court, the prosecuting authority, or the Department of Law  
861 Enforcement shall maintain any physical evidence collected at  
862 the time of the crime for which a postsentencing testing of DNA  
863 may be requested.

864 ~~(b) In a case in which the death penalty is imposed, the~~  
865 ~~evidence shall be maintained for 60 days after execution of the~~  
866 ~~sentence. In all other cases, a governmental entity may dispose~~  
867 ~~of the physical evidence if the term of the sentence imposed in~~  
868 ~~the case has expired and no other provision of law or rule~~  
869 ~~requires that the physical evidence be preserved or retained.~~

870 Section 23. Paragraphs (g) and (h) of subsection (1) and

39-01300-13

20131022

871 subsection (2) of section 945.10, Florida Statutes, are amended  
872 to read:

873 945.10 Confidential information.—

874 (1) Except as otherwise provided by law or in this section,  
875 the following records and information held by the Department of  
876 Corrections are confidential and exempt from the provisions of  
877 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

878 ~~(g) Information which identifies an executioner, or any~~  
879 ~~person prescribing, preparing, compounding, dispensing, or~~  
880 ~~administering a lethal injection.~~

881 (g) ~~(h)~~ Records that are otherwise confidential or exempt  
882 from public disclosure by law.

883 (2) The records and information specified in subsection  
884 ~~paragraphs~~ (1) ~~(a)–(h)~~ may be released as follows unless  
885 expressly prohibited by federal law:

886 (a) Information specified in paragraphs (1)(b), (d), and  
887 (f) to the Office of the Governor, the Legislature, the Parole  
888 Commission, the Department of Children and Family Services, a  
889 private correctional facility or program that operates under a  
890 contract, the Department of Legal Affairs, a state attorney, the  
891 court, or a law enforcement agency. A request for records or  
892 information pursuant to this paragraph need not be in writing.

893 (b) Information specified in paragraphs (1)(c), (e), and  
894 (g) ~~(h)~~ to the Office of the Governor, the Legislature, the  
895 Parole Commission, the Department of Children and Family  
896 Services, a private correctional facility or program that  
897 operates under contract, the Department of Legal Affairs, a  
898 state attorney, the court, or a law enforcement agency. A  
899 request for records or information pursuant to this paragraph

39-01300-13

20131022

900 must be in writing and a statement provided demonstrating a need  
901 for the records or information.

902 (c) Information specified in paragraph (1)(b) to an  
903 attorney representing an inmate under sentence of death, except  
904 those portions of the records containing a victim's statement or  
905 address, or the statement or address of a relative of the  
906 victim. A request for records of information pursuant to this  
907 paragraph must be in writing and a statement provided  
908 demonstrating a need for the records or information.

909 (d) Information specified in paragraph (1)(b) to a public  
910 defender representing a defendant, except those portions of the  
911 records containing a victim's statement or address, or the  
912 statement or address of a relative of the victim. A request for  
913 records or information pursuant to this paragraph need not be in  
914 writing.

915 (e) Information specified in paragraph (1)(b) to state or  
916 local governmental agencies. A request for records or  
917 information pursuant to this paragraph must be in writing and a  
918 statement provided demonstrating a need for the records or  
919 information.

920 (f) Information specified in paragraph (1)(b) to a person  
921 conducting legitimate research. A request for records and  
922 information pursuant to this paragraph must be in writing, the  
923 person requesting the records or information must sign a  
924 confidentiality agreement, and the department must approve the  
925 request in writing.

926 (g) Information specified in paragraph (1)(a) to the  
927 Department of Health and the county health department where an  
928 inmate plans to reside if he or she has tested positive for the



39-01300-13

20131022\_\_

929 presence of the antibody or antigen to human immunodeficiency  
930 virus infection.

931

932 Records and information released under this subsection remain  
933 confidential and exempt from the provisions of s. 119.07(1) and  
934 s. 24(a), Art. I of the State Constitution when held by the  
935 receiving person or entity.

936 Section 24. This act shall take effect July 1, 2013.