

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
30 trafficking felony; amending ss. 782.04, 394.912,
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 person under sentence of death
38 appears to be insane, proceedings when 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
 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~~
 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
 93 additional compensation, any person determined to be indigent
 94 under s. 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:

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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
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

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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
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

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

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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~~
 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
 243 | repealed.

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 245 | Statutes, are repealed.

246 | Section 12. Subsection (1) of section 782.04, Florida
 247 | Statutes, is amended to read:

248 | 782.04 Murder.—

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

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

252 | (b)2. When committed by a person engaged in the

253 | perpetration of, or in the attempt to perpetrate, any:

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

255 | ~~2.b.~~ Arson,

256 | ~~3.e.~~ Sexual battery,

257 | ~~4.d.~~ Robbery,

258 | ~~5.e.~~ Burglary,

259 | ~~6.f.~~ Kidnapping,

260 | ~~7.g.~~ Escape,

261 | ~~8.h.~~ Aggravated child abuse,

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

263 | adult,

264 | ~~10.j.~~ Aircraft piracy,

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

266 | destructive device or bomb,

267 | ~~12.l.~~ Carjacking,

268 | ~~13.m.~~ Home-invasion robbery,

269 | ~~14.n.~~ Aggravated stalking,

270 | ~~15.o.~~ Murder of another human being,

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

272 | person,

273 | ~~17.q.~~ Aggravated fleeing or eluding with serious bodily

274 | injury or death,

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

276 | furtherance of an act of terrorism; or

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

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

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

280 | compound, derivative, or preparation of opium, or methadone by a

281 person 18 years of age or older, when such drug is proven to be
 282 the proximate cause of the death of the user,

283
 284 is murder in the first degree and constitutes a capital felony,
 285 punishable as provided in s. 775.082.

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

289 Section 13. Paragraph (a) of subsection (9) of section
 290 394.912, Florida Statutes, is amended to read:

291 394.912 Definitions.—As used in this part, the term:

292 (9) "Sexually violent offense" means:

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

295 Section 14. Subsection (1) of section 782.065, Florida
 296 Statutes, is amended to read:

297 782.065 Murder; law enforcement officer, correctional
 298 officer, correctional probation officer.—Notwithstanding ss.
 299 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant
 300 shall be sentenced to life imprisonment without eligibility for
 301 release upon findings by the trier of fact that, beyond a
 302 reasonable doubt:

303 (1) The defendant committed murder in the first degree in
 304 violation of s. 782.04(1) and a death sentence was not imposed;
 305 murder in the second or third degree in violation of s.
 306 782.04(2), (3), or (4); attempted murder in the first or second
 307 degree in violation of s. 782.04(1)(a) ~~782.04(1)(a)1~~. or (2); or
 308 attempted felony murder in violation of s. 782.051; and

309 Section 15. Paragraph (a) of subsection (2) of section
 310 794.011, Florida Statutes, is amended to read:

311 794.011 Sexual battery.—

312 (2) (a) A person 18 years of age or older who commits
 313 sexual battery upon, or in an attempt to commit sexual battery
 314 injures the sexual organs of, a person less than 12 years of age
 315 commits a capital felony, punishable as provided in s. 775.082 ~~ss.~~
 316 ~~775.082 and 921.141.~~

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

319 893.135 Trafficking; mandatory sentences; suspension or
 320 reduction of sentences; conspiracy to engage in trafficking.—

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

323 (b)1. Any person who knowingly sells, purchases,
 324 manufactures, delivers, or brings into this state, or who is
 325 knowingly in actual or constructive possession of, 28 grams or
 326 more of cocaine, as described in s. 893.03(2)(a)4., or of any
 327 mixture containing cocaine, but less than 150 kilograms of
 328 cocaine or any such mixture, commits a felony of the first
 329 degree, which felony shall be known as "trafficking in cocaine,"
 330 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 331 If the quantity involved:

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

336 b. Is 200 grams or more, but less than 400 grams, such

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337 person shall be sentenced to a mandatory minimum term of
338 imprisonment of 7 years, and the defendant shall be ordered to
339 pay a fine of \$100,000.

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

343 2. Any person who knowingly sells, purchases,
344 manufactures, delivers, or brings into this state, or who is
345 knowingly in actual or constructive possession of, 150 kilograms
346 or more of cocaine, as described in s. 893.03(2)(a)4., commits
347 the first degree felony of trafficking in cocaine. A person who
348 has been convicted of the first degree felony of trafficking in
349 cocaine under this subparagraph shall be punished by life
350 imprisonment and is ineligible for any form of discretionary
351 early release except pardon or executive clemency or conditional
352 medical release under s. 947.149. However, if the court
353 determines that, in addition to committing any act specified in
354 this paragraph:

355 a. The person intentionally killed an individual or
356 counseled, commanded, induced, procured, or caused the
357 intentional killing of an individual and such killing was the
358 result; or

359 b. The person's conduct in committing that act led to a
360 natural, though not inevitable, lethal result,
361 such person commits the capital felony of trafficking in
362 cocaine, punishable as provided in s. 775.082 and ~~921.142~~.
363 Any person sentenced for a capital felony under this paragraph
364 shall also be sentenced to pay the maximum fine provided under

365 subparagraph 1.

366 3. Any person who knowingly brings into this state 300
 367 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
 368 and who knows that the probable result of such importation would
 369 be the death of any person, commits capital importation of
 370 cocaine, a capital felony punishable as provided in s. ss.
 371 775.082 ~~and 921.142~~. Any person sentenced for a capital felony
 372 under this paragraph shall also be sentenced to pay the maximum
 373 fine provided under subparagraph 1.

374 (c)1. Any person who knowingly sells, purchases,
 375 manufactures, delivers, or brings into this state, or who is
 376 knowingly in actual or constructive possession of, 4 grams or
 377 more of any morphine, opium, oxycodone, hydrocodone,
 378 hydromorphone, or any salt, derivative, isomer, or salt of an
 379 isomer thereof, including heroin, as described in s.
 380 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more
 381 of any mixture containing any such substance, but less than 30
 382 kilograms of such substance or mixture, commits a felony of the
 383 first degree, which felony shall be known as "trafficking in
 384 illegal drugs," punishable as provided in s. 775.082, s.
 385 775.083, or s. 775.084. If the quantity involved:

386 a. Is 4 grams or more, but less than 14 grams, such person
 387 shall be sentenced to a mandatory minimum term of imprisonment
 388 of 3 years, and the defendant shall be ordered to pay a fine of
 389 \$50,000.

390 b. Is 14 grams or more, but less than 28 grams, such
 391 person shall be sentenced to a mandatory minimum term of
 392 imprisonment of 15 years, and the defendant shall be ordered to

393 | pay a fine of \$100,000.

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

397 | 2. Any person who knowingly sells, purchases,
398 | manufactures, delivers, or brings into this state, or who is
399 | knowingly in actual or constructive possession of, 30 kilograms
400 | or more of any morphine, opium, oxycodone, hydrocodone,
401 | hydromorphone, or any salt, derivative, isomer, or salt of an
402 | isomer thereof, including heroin, as described in s.
403 | 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
404 | more of any mixture containing any such substance, commits the
405 | first degree felony of trafficking in illegal drugs. A person
406 | who has been convicted of the first degree felony of trafficking
407 | in illegal drugs under this subparagraph shall be punished by
408 | life imprisonment and is ineligible for any form of
409 | discretionary early release except pardon or executive clemency
410 | or conditional medical release under s. 947.149. However, if the
411 | court determines that, in addition to committing any act
412 | specified in this paragraph:

413 | a. The person intentionally killed an individual or
414 | counseled, commanded, induced, procured, or caused the
415 | intentional killing of an individual and such killing was the
416 | result; or

417 | b. The person's conduct in committing that act led to a
418 | natural, though not inevitable, lethal result,
419 | such person commits the capital felony of trafficking in illegal
420 | drugs, punishable as provided in s. 775.082 ~~and 921.142~~. Any

421 person sentenced for a capital felony under this paragraph shall
 422 also be sentenced to pay the maximum fine provided under
 423 subparagraph 1.

424 3. Any person who knowingly brings into this state 60
 425 kilograms or more of any morphine, opium, oxycodone,
 426 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
 427 salt of an isomer thereof, including heroin, as described in s.
 428 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
 429 more of any mixture containing any such substance, and who knows
 430 that the probable result of such importation would be the death
 431 of any person, commits capital importation of illegal drugs, a
 432 capital felony punishable as provided in s. ss. 775.082 and
 433 ~~921.142~~. Any person sentenced for a capital felony under this
 434 paragraph shall also be sentenced to pay the maximum fine
 435 provided under subparagraph 1.

436 (d)1. Any person who knowingly sells, purchases,
 437 manufactures, delivers, or brings into this state, or who is
 438 knowingly in actual or constructive possession of, 28 grams or
 439 more of phencyclidine or of any mixture containing
 440 phencyclidine, as described in s. 893.03(2)(b), commits a felony
 441 of the first degree, which felony shall be known as "trafficking
 442 in phencyclidine," punishable as provided in s. 775.082, s.
 443 775.083, or s. 775.084. If the quantity involved:

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

448 b. Is 200 grams or more, but less than 400 grams, such

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449 person shall be sentenced to a mandatory minimum term of
450 imprisonment of 7 years, and the defendant shall be ordered to
451 pay a fine of \$100,000.

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

455 2. Any person who knowingly brings into this state 800
456 grams or more of phencyclidine or of any mixture containing
457 phencyclidine, as described in s. 893.03(2)(b), and who knows
458 that the probable result of such importation would be the death
459 of any person commits capital importation of phencyclidine, a
460 capital felony punishable as provided in s. ss. 775.082 ~~and~~
461 ~~921.142~~. Any person sentenced for a capital felony under this
462 paragraph shall also be sentenced to pay the maximum fine
463 provided under subparagraph 1.

464 (e)1. Any person who knowingly sells, purchases,
465 manufactures, delivers, or brings into this state, or who is
466 knowingly in actual or constructive possession of, 200 grams or
467 more of methaqualone or of any mixture containing methaqualone,
468 as described in s. 893.03(1)(d), commits a felony of the first
469 degree, which felony shall be known as "trafficking in
470 methaqualone," punishable as provided in s. 775.082, s. 775.083,
471 or s. 775.084. If the quantity involved:

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

476 b. Is 5 kilograms or more, but less than 25 kilograms,

477 such person shall be sentenced to a mandatory minimum term of
 478 imprisonment of 7 years, and the defendant shall be ordered to
 479 pay a fine of \$100,000.

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

483 2. Any person who knowingly brings into this state 50
 484 kilograms or more of methaqualone or of any mixture containing
 485 methaqualone, as described in s. 893.03(1)(d), and who knows
 486 that the probable result of such importation would be the death
 487 of any person commits capital importation of methaqualone, a
 488 capital felony punishable as provided in s. ss. 775.082 ~~and~~
 489 ~~921.142~~. Any person sentenced for a capital felony under this
 490 paragraph shall also be sentenced to pay the maximum fine
 491 provided under subparagraph 1.

492 (f)1. Any person who knowingly sells, purchases,
 493 manufactures, delivers, or brings into this state, or who is
 494 knowingly in actual or constructive possession of, 14 grams or
 495 more of amphetamine, as described in s. 893.03(2)(c)2., or
 496 methamphetamine, as described in s. 893.03(2)(c)4., or of any
 497 mixture containing amphetamine or methamphetamine, or
 498 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
 499 in conjunction with other chemicals and equipment utilized in
 500 the manufacture of amphetamine or methamphetamine, commits a
 501 felony of the first degree, which felony shall be known as
 502 "trafficking in amphetamine," punishable as provided in s.
 503 775.082, s. 775.083, or s. 775.084. If the quantity involved:

504 a. Is 14 grams or more, but less than 28 grams, such

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505 person shall be sentenced to a mandatory minimum term of
506 imprisonment of 3 years, and the defendant shall be ordered to
507 pay a fine of \$50,000.

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

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

515 2. Any person who knowingly manufactures or brings into
516 this state 400 grams or more of amphetamine, as described in s.
517 893.03(2)(c)2., or methamphetamine, as described in s.
518 893.03(2)(c)4., or of any mixture containing amphetamine or
519 methamphetamine, or phenylacetone, phenylacetic acid,
520 pseudoephedrine, or ephedrine in conjunction with other
521 chemicals and equipment used in the manufacture of amphetamine
522 or methamphetamine, and who knows that the probable result of
523 such manufacture or importation would be the death of any person
524 commits capital manufacture or importation of amphetamine, a
525 capital felony punishable as provided in s. 775.082 and
526 921.142. Any person sentenced for a capital felony under this
527 paragraph shall also be sentenced to pay the maximum fine
528 provided under subparagraph 1.

529 (g)1. Any person who knowingly sells, purchases,
530 manufactures, delivers, or brings into this state, or who is
531 knowingly in actual or constructive possession of, 4 grams or
532 more of flunitrazepam or any mixture containing flunitrazepam as

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533 described in s. 893.03(1)(a) commits a felony of the first
534 degree, which felony shall be known as "trafficking in
535 flunitrazepam," punishable as provided in s. 775.082, s.
536 775.083, or s. 775.084. If the quantity involved:

537 a. Is 4 grams or more but less than 14 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 14 grams or more but less than 28 grams, such person
542 shall be sentenced to a mandatory minimum term of imprisonment
543 of 7 years, and the defendant shall be ordered to pay a fine of
544 \$100,000.

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

548 2. Any person who knowingly sells, purchases,
549 manufactures, delivers, or brings into this state or who is
550 knowingly in actual or constructive possession of 30 kilograms
551 or more of flunitrazepam or any mixture containing flunitrazepam
552 as described in s. 893.03(1)(a) commits the first degree felony
553 of trafficking in flunitrazepam. A person who has been convicted
554 of the first degree felony of trafficking in flunitrazepam under
555 this subparagraph shall be punished by life imprisonment and is
556 ineligible for any form of discretionary early release except
557 pardon or executive clemency or conditional medical release
558 under s. 947.149. However, if the court determines that, in
559 addition to committing any act specified in this paragraph:

560 a. The person intentionally killed an individual or

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561 counseled, commanded, induced, procured, or caused the
562 intentional killing of an individual and such killing was the
563 result; or

564 b. The person's conduct in committing that act led to a
565 natural, though not inevitable, lethal result,
566 such person commits the capital felony of trafficking in
567 flunitrazepam, punishable as provided in s. 775.082 and
568 ~~921.142~~. Any person sentenced for a capital felony under this
569 paragraph shall also be sentenced to pay the maximum fine
570 provided under subparagraph 1.

571 (h)1. Any person who knowingly sells, purchases,
572 manufactures, delivers, or brings into this state, or who is
573 knowingly in actual or constructive possession of, 1 kilogram or
574 more of gamma-hydroxybutyric acid (GHB), as described in s.
575 893.03(1)(d), or any mixture containing gamma-hydroxybutyric
576 acid (GHB), commits a felony of the first degree, which felony
577 shall be known as "trafficking in gamma-hydroxybutyric acid
578 (GHB)," punishable as provided in s. 775.082, s. 775.083, or s.
579 775.084. If the quantity involved:

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

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

588 c. Is 10 kilograms or more, such person shall be sentenced

589 to a mandatory minimum term of imprisonment of 15 calendar years
 590 and pay a fine of \$250,000.

591 2. Any person who knowingly manufactures or brings into
 592 this state 150 kilograms or more of gamma-hydroxybutyric acid
 593 (GHB), as described in s. 893.03(1)(d), or any mixture
 594 containing gamma-hydroxybutyric acid (GHB), and who knows that
 595 the probable result of such manufacture or importation would be
 596 the death of any person commits capital manufacture or
 597 importation of gamma-hydroxybutyric acid (GHB), a capital felony
 598 punishable as provided in s. ss. 775.082 and ~~921.142~~. Any person
 599 sentenced for a capital felony under this paragraph shall also
 600 be sentenced to pay the maximum fine provided under subparagraph
 601 1.

602 (i)1. Any person who knowingly sells, purchases,
 603 manufactures, delivers, or brings into this state, or who is
 604 knowingly in actual or constructive possession of, 1 kilogram or
 605 more of gamma-butyrolactone (GBL), as described in s.
 606 893.03(1)(d), or any mixture containing gamma-butyrolactone
 607 (GBL), commits a felony of the first degree, which felony shall
 608 be known as "trafficking in gamma-butyrolactone (GBL),"
 609 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 610 If the quantity involved:

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

615 b. Is 5 kilograms or more but less than 10 kilograms, such
 616 person shall be sentenced to a mandatory minimum term of

617 imprisonment of 7 years, and the defendant shall be ordered to
 618 pay a fine of \$100,000.

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

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

632 (j)1. Any person who knowingly sells, purchases,
 633 manufactures, delivers, or brings into this state, or who is
 634 knowingly in actual or constructive possession of, 1 kilogram or
 635 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of
 636 any mixture containing 1,4-Butanediol, commits a felony of the
 637 first degree, which felony shall be known as "trafficking in
 638 1,4-Butanediol," punishable as provided in s. 775.082, s.
 639 775.083, or s. 775.084. If the quantity involved:

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

644 b. Is 5 kilograms or more, but less than 10 kilograms,

645 such person shall be sentenced to a mandatory minimum term of
 646 imprisonment of 7 years, and the defendant shall be ordered to
 647 pay a fine of \$100,000.

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

651 2. Any person who knowingly manufactures or brings into
 652 this state 150 kilograms or more of 1,4-Butanediol as described
 653 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
 654 and who knows that the probable result of such manufacture or
 655 importation would be the death of any person commits capital
 656 manufacture or importation of 1,4-Butanediol, a capital felony
 657 punishable as provided in s. ss. 775.082 and ~~921.142~~. Any person
 658 sentenced for a capital felony under this paragraph shall also
 659 be sentenced to pay the maximum fine provided under subparagraph
 660 1.

661 (k)1. Any person who knowingly sells, purchases,
 662 manufactures, delivers, or brings into this state, or who is
 663 knowingly in actual or constructive possession of, 10 grams or
 664 more of any of the following substances described in s.
 665 893.03(1)(a) or (c):

- 666 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 667 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 668 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 669 d. 2,5-Dimethoxyamphetamine;
- 670 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 671 f. N-ethylamphetamine;
- 672 g. N-Hydroxy-3,4-methylenedioxyamphetamine;

673 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
 674 i. 4-methoxyamphetamine;
 675 j. 4-methoxymethamphetamine;
 676 k. 4-Methyl-2,5-dimethoxyamphetamine;
 677 l. 3,4-Methylenedioxy-N-ethylamphetamine;
 678 m. 3,4-Methylenedioxyamphetamine;
 679 n. N,N-dimethylamphetamine; or
 680 o. 3,4,5-Trimethoxyamphetamine,
 681 individually or in any combination of or any mixture containing
 682 any substance listed in sub-subparagraphs a.-o., commits a
 683 felony of the first degree, which felony shall be known as
 684 "trafficking in Phenethylamines," punishable as provided in s.
 685 775.082, s. 775.083, or s. 775.084.

686 2. If the quantity involved:

687 a. Is 10 grams or more but less than 200 grams, such
 688 person shall be sentenced to a mandatory minimum term of
 689 imprisonment of 3 years, and the defendant shall be ordered to
 690 pay a fine of \$50,000.

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

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

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

- 701 a. 3,4-Methylenedioxyamphetamine (MDMA);
 702 b. 4-Bromo-2,5-dimethoxyamphetamine;
 703 c. 4-Bromo-2,5-dimethoxyphenethylamine;
 704 d. 2,5-Dimethoxyamphetamine;
 705 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
 706 f. N-ethylamphetamine;
 707 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
 708 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
 709 i. 4-methoxyamphetamine;
 710 j. 4-methoxymethamphetamine;
 711 k. 4-Methyl-2,5-dimethoxyamphetamine;
 712 l. 3,4-Methylenedioxy-N-ethylamphetamine;
 713 m. 3,4-Methylenedioxyamphetamine;
 714 n. N,N-dimethylamphetamine; or
 715 o. 3,4,5-Trimethoxyamphetamine,
 716 individually or in any combination of or any mixture containing
 717 any substance listed in sub-subparagraphs a.-o., and who knows
 718 that the probable result of such manufacture or importation
 719 would be the death of any person commits capital manufacture or
 720 importation of Phenethylamines, a capital felony punishable as
 721 provided in s. ss. 775.082 and 921.142. Any person sentenced for
 722 a capital felony under this paragraph shall also be sentenced to
 723 pay the maximum fine provided under subparagraph 1.
 724 (1)1. Any person who knowingly sells, purchases,
 725 manufactures, delivers, or brings into this state, or who is
 726 knowingly in actual or constructive possession of, 1 gram or
 727 more of lysergic acid diethylamide (LSD) as described in s.
 728 893.03(1)(c), or of any mixture containing lysergic acid

729 diethylamide (LSD), commits a felony of the first degree, which
 730 felony shall be known as "trafficking in lysergic acid
 731 diethylamide (LSD)," punishable as provided in s. 775.082, s.
 732 775.083, or s. 775.084. If the quantity involved:

733 a. Is 1 gram or more, but less than 5 grams, such person
 734 shall be sentenced to a mandatory minimum term of imprisonment
 735 of 3 years, and the defendant shall be ordered to pay a fine of
 736 \$50,000.

737 b. Is 5 grams or more, but less than 7 grams, such person
 738 shall be sentenced to a mandatory minimum term of imprisonment
 739 of 7 years, and the defendant shall be ordered to pay a fine of
 740 \$100,000.

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

744 2. Any person who knowingly manufactures or brings into
 745 this state 7 grams or more of lysergic acid diethylamide (LSD)
 746 as described in s. 893.03(1)(c), or any mixture containing
 747 lysergic acid diethylamide (LSD), and who knows that the
 748 probable result of such manufacture or importation would be the
 749 death of any person commits capital manufacture or importation
 750 of lysergic acid diethylamide (LSD), a capital felony punishable
 751 as provided in s. ss. 775.082 and 921.142. Any person sentenced
 752 for a capital felony under this paragraph shall also be
 753 sentenced to pay the maximum fine provided under subparagraph 1.

754 Section 17. Sections 922.052, 922.06, 922.07, 922.08,
 755 922.095, 922.10, 922.105, 922.108, 922.11, 922.111, 922.12,
 756 922.14, and 922.15, Florida Statutes, are repealed.

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757 Section 18. Section 924.055, Florida Statutes, is amended
758 to read:

759 924.055 Postconviction review in capital cases;
760 legislative findings and intent.—

761 ~~(1) It is the intent of the Legislature to reduce delays~~
762 ~~in capital cases and to ensure that all appeals and~~
763 ~~postconviction actions in capital cases are resolved within 5~~
764 ~~years after the date a sentence of death is imposed in the~~
765 ~~circuit court. All capital postconviction actions must be filed~~
766 ~~as early as possible after the imposition of a sentence of death~~
767 ~~which may be during a direct appeal of the conviction and~~
768 ~~sentence. A person sentenced to death or that person's capital~~
769 ~~postconviction counsel must file any postconviction legal action~~
770 ~~in compliance with the statutes of limitation established in s.~~
771 ~~924.056 and elsewhere in this chapter. Except as expressly~~
772 ~~allowed by s. 924.056(5), a person sentenced to death or that~~
773 ~~person's capital postconviction counsel may not file more than~~
774 ~~one postconviction action in a sentencing court and one appeal~~
775 ~~therefrom to the Florida Supreme Court, unless authorized by~~
776 ~~law.~~

777 ~~(2)~~ It is the ~~further~~ intent of the Legislature that no
778 state resources be expended in violation of this act. In the
779 event that any state employee or party contracting with the
780 state violates the provisions of this act, the Attorney General
781 shall deliver to the Speaker of the House of Representatives and
782 the President of the Senate a copy of any court pleading or
783 order that describes or adjudicates a violation.

784 Section 19. Sections 924.056 and 924.057, Florida
 785 Statutes, are repealed.

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

788 924.058 Capital postconviction claims.—This section shall
 789 regulate the procedures in actions for capital postconviction
 790 relief commencing after the effective date of this act unless
 791 and until such procedures are revised by rule or rules adopted
 792 by the Florida Supreme Court which specifically reference this
 793 section.

794 (1) The defendant or the defendant's capital
 795 postconviction counsel shall not file more than one capital
 796 postconviction action in the sentencing court, one appeal
 797 therefrom in the Florida Supreme Court, and one original capital
 798 postconviction action alleging the ineffectiveness of direct
 799 appeal counsel in the Florida Supreme Court, ~~except as expressly~~
 800 ~~allowed by s. 924.056(5).~~

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

803 924.059 Time limitations and judicial review in capital
 804 postconviction actions.—This section shall regulate the
 805 procedures in actions for capital postconviction relief
 806 commencing after the effective date of this act unless and until
 807 such procedures are revised by rule or rules adopted by the
 808 Florida Supreme Court which specifically reference this section.

809 (8) A capital postconviction action filed in violation of
 810 the time limitations provided by statute is barred, and all
 811 claims raised therein are waived. ~~A state court shall not~~

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812 ~~consider any capital postconviction action filed in violation of~~
 813 ~~s. 924.056 or s. 924.057.~~ The Attorney General shall deliver to
 814 the Governor, the President of the Senate, and the Speaker of
 815 the House of Representatives a copy of any pleading or order
 816 that alleges or adjudicates any violation of this provision.

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

819 925.11 Postsentencing DNA testing.—

820 (4) PRESERVATION OF EVIDENCE.—

821 ~~(a)~~ Governmental entities that may be in possession of any
 822 physical evidence in the case, including, but not limited to,
 823 any investigating law enforcement agency, the clerk of the
 824 court, the prosecuting authority, or the Department of Law
 825 Enforcement shall maintain any physical evidence collected at
 826 the time of the crime for which a postsentencing testing of DNA
 827 may be requested.

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

834 Section 23. Paragraphs (g) and (h) of subsection (1) and
 835 subsection (2) of section 945.10, Florida Statutes, are amended
 836 to read:

837 945.10 Confidential information.—

838 (1) Except as otherwise provided by law or in this
 839 section, the following records and information held by the

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840 Department of Corrections are confidential and exempt from the
841 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
842 Constitution:

843 ~~(g) Information which identifies an executioner, or any~~
844 ~~person prescribing, preparing, compounding, dispensing, or~~
845 ~~administering a lethal injection.~~

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

848 (2) The records and information specified in subsection
849 ~~paragraphs~~ (1)~~(a)~~~~(h)~~ may be released as follows unless
850 expressly prohibited by federal law:

851 (a) Information specified in paragraphs (1)(b), (d), and
852 (f) to the Office of the Governor, the Legislature, the Parole
853 Commission, the Department of Children and Family Services, a
854 private correctional facility or program that operates under a
855 contract, the Department of Legal Affairs, a state attorney, the
856 court, or a law enforcement agency. A request for records or
857 information pursuant to this paragraph need not be in writing.

858 (b) Information specified in paragraphs (1)(c), (e), and
859 (g)~~(h)~~ to the Office of the Governor, the Legislature, the
860 Parole Commission, the Department of Children and Family
861 Services, a private correctional facility or program that
862 operates under contract, the Department of Legal Affairs, a
863 state attorney, the court, or a law enforcement agency. A
864 request for records or information pursuant to this paragraph
865 must be in writing and a statement provided demonstrating a need
866 for the records or information.

867 (c) Information specified in paragraph (1)(b) to an

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868 attorney representing an inmate under sentence of death, except
869 those portions of the records containing a victim's statement or
870 address, or the statement or address of a relative of the
871 victim. A request for records of information pursuant to this
872 paragraph must be in writing and a statement provided
873 demonstrating a need for the records or information.

874 (d) Information specified in paragraph (1)(b) to a public
875 defender representing a defendant, except those portions of the
876 records containing a victim's statement or address, or the
877 statement or address of a relative of the victim. A request for
878 records or information pursuant to this paragraph need not be in
879 writing.

880 (e) Information specified in paragraph (1)(b) to state or
881 local governmental agencies. A request for records or
882 information pursuant to this paragraph must be in writing and a
883 statement provided demonstrating a need for the records or
884 information.

885 (f) Information specified in paragraph (1)(b) to a person
886 conducting legitimate research. A request for records and
887 information pursuant to this paragraph must be in writing, the
888 person requesting the records or information must sign a
889 confidentiality agreement, and the department must approve the
890 request in writing.

891 (g) Information specified in paragraph (1)(a) to the
892 Department of Health and the county health department where an
893 inmate plans to reside if he or she has tested positive for the
894 presence of the antibody or antigen to human immunodeficiency
895 virus infection.

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896 | Records and information released under this subsection remain
897 | confidential and exempt from the provisions of s. 119.07(1) and
898 | s. 24(a), Art. I of the State Constitution when held by the
899 | receiving person or entity.

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