

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, 27.715, and 27.7045, F.S., relating to
13 capital collateral representation and constitutionally
14 deficient representation, respectively; amending s.
15 119.071, F.S.; deleting a public records exemption
16 relating to capital collateral proceedings; amending
17 s. 282.201, F.S.; conforming a provision to changes
18 made by the act; amending ss. 775.15 and 790.161,
19 F.S.; deleting provisions relating to the effect of a
20 declaration by a court of last resort declaring that
21 the death penalty in a capital felony is
22 unconstitutional; repealing s. 913.13, F.S., relating
23 to jurors in capital cases; repealing s. 921.137,
24 F.S., relating to prohibiting the imposition of the
25 death sentence upon a defendant with mental
26 retardation; repealing s. 921.141, F.S., relating to
27 determination of whether to impose a sentence of death
28 or life imprisonment for a capital felony; repealing

29 | s. 921.142, F.S., relating to determination of whether
30 | to impose a sentence of death or life imprisonment for
31 | a capital drug trafficking felony; amending ss.
32 | 782.04, 394.912, 782.065, 794.011, and 893.135, F.S.;
33 | conforming provisions to changes made by the act;
34 | repealing ss. 922.052, 922.06, 922.07, 922.08,
35 | 922.095, 922.10, 922.105, 922.108, 922.11, 922.111,
36 | 922.12, 922.14, 922.15, 924.055, 924.056, and 924.057,
37 | F.S., relating to issuance of warrant of execution,
38 | stay of execution of death sentence, proceedings when
39 | person under sentence of death appears to be insane,
40 | proceedings when person under sentence of death
41 | appears to be pregnant, grounds for death warrant,
42 | execution of death sentence, prohibition against
43 | reduction of death sentence as a result of
44 | determination that a method of execution is
45 | unconstitutional, sentencing orders in capital cases,
46 | regulation of execution, transfer to state prison for
47 | safekeeping before death warrant issued, return of
48 | warrant of execution issued by Governor, sentence of
49 | death unexecuted for unjustifiable reasons, return of
50 | warrant of execution issued by Supreme Court,
51 | legislative intent concerning appeals and
52 | postconviction proceedings in death penalty cases,
53 | commencement of capital postconviction actions for
54 | which sentence of death is imposed on or after January
55 | 14, 2000, and limitation on postconviction cases in
56 | which the death sentence was imposed before January

HB 4011

2014

57 | 14, 2000, respectively; amending s. 925.11, F.S.;
 58 | deleting provisions relating to preservation of DNA
 59 | evidence in death penalty cases; amending s. 945.10,
 60 | F.S.; deleting a public records exemption for the
 61 | identity of executioners; providing an effective date.

63 | Be It Enacted by the Legislature of the State of Florida:

65 | Section 1. Subsections (1) and (2) of section 775.082,
 66 | Florida Statutes, are amended to read:

67 | 775.082 Penalties; applicability of sentencing structures;
 68 | mandatory minimum sentences for certain reoffenders previously
 69 | released from prison.—

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

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

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

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

88 27.51 Duties of public defender.—

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

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

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

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

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

110 27.511 Offices of criminal conflict and civil regional
111 counsel; legislative intent; qualifications; appointment;
112 duties.—

HB 4011

2014

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

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

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

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

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

HB 4011

2014

141 authorized appeals to the federal courts required of the
 142 official making the request. If the public defender certifies to
 143 the court that the public defender has a conflict consistent
 144 with the criteria prescribed in s. 27.5303 and moves to
 145 withdraw, the regional counsel shall handle the appeal, unless
 146 the regional counsel has a conflict, in which case the court
 147 shall appoint private counsel pursuant to s. 27.40.

148 Section 4. Sections 27.7001, 27.7002, 27.701, 27.702,
 149 27.703, 27.704, 27.7045, 27.705, 27.706, 27.707, 27.708,
 150 27.7081, 27.7091, 27.710, 27.711, and 27.715, Florida Statutes,
 151 are repealed.

152 Section 5. Paragraph (d) of subsection (1) of section
 153 119.071, Florida Statutes, is amended to read:

154 119.071 General exemptions from inspection or copying of
 155 public records.—

156 (1) AGENCY ADMINISTRATION.—

157 (d)1. A public record that was prepared by an agency
 158 attorney (including an attorney employed or retained by the
 159 agency or employed or retained by another public officer or
 160 agency to protect or represent the interests of the agency
 161 having custody of the record) or prepared at the attorney's
 162 express direction, that reflects a mental impression,
 163 conclusion, litigation strategy, or legal theory of the attorney
 164 or the agency, and that was prepared exclusively for civil or
 165 criminal litigation or for adversarial administrative
 166 proceedings, or that was prepared in anticipation of imminent
 167 civil or criminal litigation or imminent adversarial
 168 administrative proceedings, is exempt from s. 119.07(1) and s.

HB 4011

2014

169 24(a), Art. I of the State Constitution until the conclusion of
 170 the litigation or adversarial administrative proceedings. ~~For~~
 171 ~~purposes of capital collateral litigation as set forth in s.~~
 172 ~~27.7001, the Attorney General's office is entitled to claim this~~
 173 ~~exemption for those public records prepared for direct appeal as~~
 174 ~~well as for all capital collateral litigation after direct~~
 175 ~~appeal until execution of sentence or imposition of a life~~
 176 ~~sentence.~~

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

188 Section 6. Paragraph (k) of subsection (4) of section
 189 282.201, Florida Statutes, is amended to read:

190 282.201 State data center system; agency duties and
 191 limitations.—A state data center system that includes all
 192 primary data centers, other nonprimary data centers, and
 193 computing facilities, and that provides an enterprise
 194 information technology service as defined in s. 282.0041, is
 195 established.

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

HB 4011

2014

197 (k) The Department of Law Enforcement, the Department of
 198 the Lottery's Gaming System, Systems Design and Development in
 199 the Office of Policy and Budget, and the State Board of
 200 Administration, state attorneys, public defenders, criminal
 201 conflict and civil regional counsel, ~~capital collateral regional~~
 202 ~~counsel~~, the Florida Clerks of Court Operations Corporation, and
 203 the Florida Housing Finance Corporation are exempt from data
 204 center consolidation under this section.

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

207 775.15 Time limitations; general time limitations;
 208 exceptions.—

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

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

218 790.161 Making, possessing, throwing, projecting, placing,
 219 or discharging any destructive device or attempt so to do,
 220 felony; penalties.—A person who willfully and unlawfully makes,
 221 possesses, throws, projects, places, discharges, or attempts to
 222 make, possess, throw, project, place, or discharge any
 223 destructive device:

224 (4) If the act results in the death of another person,

HB 4011

2014

225 | commits a capital felony, punishable as provided in s. 775.082.
 226 | ~~In the event the death penalty in a capital felony is held to be~~
 227 | ~~unconstitutional by the Florida Supreme Court or the United~~
 228 | ~~States Supreme Court, the court having jurisdiction over a~~
 229 | ~~person previously sentenced to death for a capital felony shall~~
 230 | ~~cause such person to be brought before the court, and the court~~
 231 | ~~shall sentence such person to life imprisonment if convicted of~~
 232 | ~~murder in the first degree or of a capital felony under this~~
 233 | ~~subsection, and such person shall be ineligible for parole. No~~
 234 | ~~sentence of death shall be reduced as a result of a~~
 235 | ~~determination that a method of execution is held to be~~
 236 | ~~unconstitutional under the State Constitution or the~~
 237 | ~~Constitution of the United States.~~

238 | Section 9. Section 913.13, Florida Statutes, is repealed.

239 | Section 10. Section 921.137, Florida Statutes, is
 240 | repealed.

241 | Section 11. Sections 921.141 and 921.142, Florida
 242 | Statutes, are repealed.

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

245 | 782.04 Murder.—

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

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

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

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

252 | 2.b. Arson,

HB 4011

2014

253 ~~3.e.~~ Sexual battery,
 254 ~~4.d.~~ Robbery,
 255 ~~5.e.~~ Burglary,
 256 ~~6.f.~~ Kidnapping,
 257 ~~7.g.~~ Escape,
 258 ~~8.h.~~ Aggravated child abuse,
 259 ~~9.i.~~ Aggravated abuse of an elderly person or disabled
 260 adult,
 261 ~~10.j.~~ Aircraft piracy,
 262 ~~11.k.~~ Unlawful throwing, placing, or discharging of a
 263 destructive device or bomb,
 264 ~~12.l.~~ Carjacking,
 265 ~~13.m.~~ Home-invasion robbery,
 266 ~~14.n.~~ Aggravated stalking,
 267 ~~15.o.~~ Murder of another human being,
 268 ~~16.p.~~ Resisting an officer with violence to his or her
 269 person,
 270 ~~17.q.~~ Aggravated fleeing or eluding with serious bodily
 271 injury or death,
 272 ~~18.r.~~ Felony that is an act of terrorism or is in
 273 furtherance of an act of terrorism; or
 274 ~~(c)3.~~ Which resulted from the unlawful distribution of any
 275 substance controlled under s. 893.03(1), cocaine as described in
 276 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
 277 compound, derivative, or preparation of opium, or methadone by a
 278 person 18 years of age or older, when such drug is proven to be
 279 the proximate cause of the death of the user,
 280

HB 4011

2014

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

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

286 Section 13. Paragraph (a) of subsection (9) of section
 287 394.912, Florida Statutes, is amended to read:

288 394.912 Definitions.—As used in this part, the term:

289 (9) "Sexually violent offense" means:

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

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

294 782.065 Murder; law enforcement officer, correctional
 295 officer, correctional probation officer.—Notwithstanding ss.
 296 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant
 297 shall be sentenced to life imprisonment without eligibility for
 298 release upon findings by the trier of fact that, beyond a
 299 reasonable doubt:

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

306 Section 15. Paragraph (a) of subsection (2) of section
 307 794.011, Florida Statutes, is amended to read:

308 794.011 Sexual battery.—

HB 4011

2014

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

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

316 893.135 Trafficking; mandatory sentences; suspension or
 317 reduction of sentences; conspiracy to engage in trafficking.—

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

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

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

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

HB 4011

2014

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

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

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

356 b. The person's conduct in committing that act led to a
357 natural, though not inevitable, lethal result,
358
359 such person commits the capital felony of trafficking in
360 cocaine, punishable as provided in s. 775.082 and ~~921.142~~.
361 Any person sentenced for a capital felony under this paragraph
362 shall also be sentenced to pay the maximum fine provided under
363 subparagraph 1.

364 3. Any person who knowingly brings into this state 300

HB 4011

2014

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

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

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

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

392 c. Is 28 grams or more, but less than 30 kilograms, such

HB 4011

2014

393 person shall be sentenced to a mandatory minimum term of
 394 imprisonment of 25 calendar years and pay a fine of \$500,000.

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

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

415 b. The person's conduct in committing that act led to a
 416 natural, though not inevitable, lethal result,
 417
 418 such person commits the capital felony of trafficking in illegal
 419 drugs, punishable as provided in s. ss. 775.082 and 921.142. Any
 420 person sentenced for a capital felony under this paragraph shall

421 also be sentenced to pay the maximum fine provided under
 422 subparagraph 1.

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

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

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

447 b. Is 200 grams or more, but less than 400 grams, such
 448 person shall be sentenced to a mandatory minimum term of

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

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

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

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

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

475 b. Is 5 kilograms or more, but less than 25 kilograms,
 476 such person shall be sentenced to a mandatory minimum term of

HB 4011

2014

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

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

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

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

503 a. Is 14 grams or more, but less than 28 grams, such
504 person shall be sentenced to a mandatory minimum term of

505 imprisonment of 3 years, and the defendant shall be ordered to
 506 pay a fine of \$50,000.

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

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

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

528 (g)1. Any person who knowingly sells, purchases,
 529 manufactures, delivers, or brings into this state, or who is
 530 knowingly in actual or constructive possession of, 4 grams or
 531 more of flunitrazepam or any mixture containing flunitrazepam as
 532 described in s. 893.03(1)(a) commits a felony of the first

HB 4011

2014

533 degree, which felony shall be known as "trafficking in
534 flunitrazepam," punishable as provided in s. 775.082, s.
535 775.083, or s. 775.084. If the quantity involved:

536 a. Is 4 grams or more but less than 14 grams, such person
537 shall be sentenced to a mandatory minimum term of imprisonment
538 of 3 years, and the defendant shall be ordered to pay a fine of
539 \$50,000.

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

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

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

559 a. The person intentionally killed an individual or
560 counseled, commanded, induced, procured, or caused the

HB 4011

2014

561 intentional killing of an individual and such killing was the
562 result; or

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

565
566 such person commits the capital felony of trafficking in
567 flunitrazepam, punishable as provided in s. ss. 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

HB 4011

2014

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

HB 4011

2014

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)(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
 682 individually or in any combination of or any mixture containing
 683 any substance listed in sub-subparagraphs a.-o., commits a
 684 felony of the first degree, which felony shall be known as
 685 "trafficking in Phenethylamines," punishable as provided in s.
 686 775.082, s. 775.083, or s. 775.084.

687 2. If the quantity involved:

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

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

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

699 3. Any person who knowingly manufactures or brings into
 700 this state 30 kilograms or more of any of the following

HB 4011

2014

701 substances described in s. 893.03(1)(c):

702 a. 3,4-Methylenedioxyamphetamine (MDMA);

703 b. 4-Bromo-2,5-dimethoxyamphetamine;

704 c. 4-Bromo-2,5-dimethoxyphenethylamine;

705 d. 2,5-Dimethoxyamphetamine;

706 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);

707 f. N-ethylamphetamine;

708 g. N-Hydroxy-3,4-methylenedioxyamphetamine;

709 h. 5-Methoxy-3,4-methylenedioxyamphetamine;

710 i. 4-methoxyamphetamine;

711 j. 4-methoxymethamphetamine;

712 k. 4-Methyl-2,5-dimethoxyamphetamine;

713 l. 3,4-Methylenedioxy-N-ethylamphetamine;

714 m. 3,4-Methylenedioxyamphetamine;

715 n. N,N-dimethylamphetamine; or

716 o. 3,4,5-Trimethoxyamphetamine,

717

718 individually or in any combination of or any mixture containing

719 any substance listed in sub-subparagraphs a.-o., and who knows

720 that the probable result of such manufacture or importation

721 would be the death of any person commits capital manufacture or

722 importation of Phenethylamines, a capital felony punishable as

723 provided in s. ss. 775.082 and 921.142. Any person sentenced for

724 a capital felony under this paragraph shall also be sentenced to

725 pay the maximum fine provided under subparagraph 1.

726 (1)1. Any person who knowingly sells, purchases,

727 manufactures, delivers, or brings into this state, or who is

728 knowingly in actual or constructive possession of, 1 gram or

HB 4011

2014

729 more of lysergic acid diethylamide (LSD) as described in s.
 730 893.03(1)(c), or of any mixture containing lysergic acid
 731 diethylamide (LSD), commits a felony of the first degree, which
 732 felony shall be known as "trafficking in lysergic acid
 733 diethylamide (LSD)," punishable as provided in s. 775.082, s.
 734 775.083, or s. 775.084. If the quantity involved:

735 a. Is 1 gram or more, but less than 5 grams, such person
 736 shall be sentenced to a mandatory minimum term of imprisonment
 737 of 3 years, and the defendant shall be ordered to pay a fine of
 738 \$50,000.

739 b. Is 5 grams or more, but less than 7 grams, such person
 740 shall be sentenced to a mandatory minimum term of imprisonment
 741 of 7 years, and the defendant shall be ordered to pay a fine of
 742 \$100,000.

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

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

756 Section 17. Sections 922.052, 922.06, 922.07, 922.08,

757 922.095, 922.10, 922.105, 922.108, 922.11, 922.111, 922.12,
 758 922.14, 922.15, 924.055, 924.056, and 924.057, Florida Statutes,
 759 are repealed.

760 Section 18. Subsection (4) of section 925.11, Florida
 761 Statutes, is amended to read:

762 925.11 Postsentencing DNA testing.—

763 (4) PRESERVATION OF EVIDENCE.—

764 ~~(a)~~ Governmental entities that may be in possession of any
 765 physical evidence in the case, including, but not limited to,
 766 any investigating law enforcement agency, the clerk of the
 767 court, the prosecuting authority, or the Department of Law
 768 Enforcement shall maintain any physical evidence collected at
 769 the time of the crime for which a postsentencing testing of DNA
 770 may be requested.

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

777 Section 19. Paragraphs (g) and (h) of subsection (1) and
 778 subsection (2) of section 945.10, Florida Statutes, are amended
 779 to read:

780 945.10 Confidential information.—

781 (1) Except as otherwise provided by law or in this
 782 section, the following records and information held by the
 783 Department of Corrections are confidential and exempt from the
 784 provisions of s. 119.07(1) and s. 24(a), Art. I of the State

HB 4011

2014

785 Constitution:

786 ~~(g) Information which identifies an executioner, or any~~
787 ~~person prescribing, preparing, compounding, dispensing, or~~
788 ~~administering a lethal injection.~~

789 (g)(h) Records that are otherwise confidential or exempt
790 from public disclosure by law.

791 (2) The records and information specified in subsection
792 ~~paragraphs~~ (1) ~~(a)-(h)~~ may be released as follows unless
793 expressly prohibited by federal law:

794 (a) Information specified in paragraphs (1)(b), (d), and
795 (f) to the Office of the Governor, the Legislature, the Parole
796 Commission, the Department of Children and Family Services, a
797 private correctional facility or program that operates under a
798 contract, the Department of Legal Affairs, a state attorney, the
799 court, or a law enforcement agency. A request for records or
800 information pursuant to this paragraph need not be in writing.

801 (b) Information specified in paragraphs (1)(c), (e), and
802 (g)(h) to the Office of the Governor, the Legislature, the
803 Parole Commission, the Department of Children and Family
804 Services, a private correctional facility or program that
805 operates under contract, the Department of Legal Affairs, a
806 state attorney, the court, or a law enforcement agency. A
807 request for records or information pursuant to this paragraph
808 must be in writing and a statement provided demonstrating a need
809 for the records or information.

810 (c) Information specified in paragraph (1)(b) to an
811 attorney representing an inmate under sentence of death, except
812 those portions of the records containing a victim's statement or

HB 4011

2014

813 address, or the statement or address of a relative of the
814 victim. A request for records of information pursuant to this
815 paragraph must be in writing and a statement provided
816 demonstrating a need for the records or information.

817 (d) Information specified in paragraph (1)(b) to a public
818 defender representing a defendant, except those portions of the
819 records containing a victim's statement or address, or the
820 statement or address of a relative of the victim. A request for
821 records or information pursuant to this paragraph need not be in
822 writing.

823 (e) Information specified in paragraph (1)(b) to state or
824 local governmental agencies. A request for records or
825 information pursuant to this paragraph must be in writing and a
826 statement provided demonstrating a need for the records or
827 information.

828 (f) Information specified in paragraph (1)(b) to a person
829 conducting legitimate research. A request for records and
830 information pursuant to this paragraph must be in writing, the
831 person requesting the records or information must sign a
832 confidentiality agreement, and the department must approve the
833 request in writing.

834 (g) Information specified in paragraph (1)(a) to the
835 Department of Health and the county health department where an
836 inmate plans to reside if he or she has tested positive for the
837 presence of the antibody or antigen to human immunodeficiency
838 virus infection.

839 Records and information released under this subsection remain
840 confidential and exempt from the provisions of s. 119.07(1) and

HB 4011

2014

841 | s. 24(a), Art. I of the State Constitution when held by the
842 | receiving person or entity.

843 | Section 20. This act shall take effect July 1, 2014.