

By Senator Bullard

39-01692-16

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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 27.7045, 27.705, 27.706, 27.707, 27.708, 27.7081,
12 27.7091, 27.710, 27.711, and 27.715, 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.
32 775.021, 782.04, 394.912, 782.065, 794.011, and

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33 893.135, F.S.; conforming provisions to changes made
34 by the act; repealing ss. 922.052, 922.06, 922.07,
35 922.08, 922.095, 922.10, 922.105, 922.108, 922.11,
36 922.111, 922.12, 922.14, 922.15, 924.055, 924.056, and
37 924.057, F.S., relating to issuance of warrant of
38 execution, stay of execution of death sentence,
39 proceedings when person under sentence of death
40 appears to be insane, proceedings when person under
41 sentence of death appears to be pregnant, grounds for
42 death warrant, execution of death sentence,
43 prohibition against reduction of death sentence as a
44 result of 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
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.

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

Section 1. Paragraph (a) of subsection (1) and subsection (2) of section 775.082, Florida Statutes, are amended to read:

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

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

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

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

27.51 Duties of public defender.—

(1) The public defender shall represent, without additional

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91 compensation, any person determined to be indigent under s.
92 27.52 and:

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

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

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

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

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

114 (5) When the Office of the Public Defender, at any time
115 during the representation of two or more defendants, determines
116 that the interests of those accused are so adverse or hostile
117 that they cannot all be counseled by the public defender or his
118 or her staff without a conflict of interest, or that none can be
119 counseled by the public defender or his or her staff because of

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120 a conflict of interest, and the court grants the public
121 defender's motion to withdraw, the office of criminal conflict
122 and civil regional counsel shall be appointed and shall provide
123 legal services, without additional compensation, to any person
124 determined to be indigent under s. 27.52, who is:

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

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

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

135 (8) The public defender for the judicial circuit specified
136 in s. 27.51(4) shall, after the record on appeal is transmitted
137 to the appellate court by the office of criminal conflict and
138 civil regional counsel which handled the trial and if requested
139 by the regional counsel for the indicated appellate district,
140 handle all circuit court appeals authorized pursuant to
141 paragraph (5) (e)~~(f)~~ within the state courts system and any
142 authorized appeals to the federal courts required of the
143 official making the request. If the public defender certifies to
144 the court that the public defender has a conflict consistent
145 with the criteria prescribed in s. 27.5303 and moves to
146 withdraw, the regional counsel shall handle the appeal, unless
147 the regional counsel has a conflict, in which case the court
148 shall appoint private counsel pursuant to s. 27.40.

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

153 Section 5. Paragraph (d) of subsection (1) of section
154 119.071, Florida Statutes, is amended to read:

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

157 (1) AGENCY ADMINISTRATION.—

158 (d)1. A public record that was prepared by an agency
159 attorney (including an attorney employed or retained by the
160 agency or employed or retained by another public officer or
161 agency to protect or represent the interests of the agency
162 having custody of the record) or prepared at the attorney's
163 express direction, that reflects a mental impression,
164 conclusion, litigation strategy, or legal theory of the attorney
165 or the agency, and that was prepared exclusively for civil or
166 criminal litigation or for adversarial administrative
167 proceedings, or that was prepared in anticipation of imminent
168 civil or criminal litigation or imminent adversarial
169 administrative proceedings, is exempt from s. 119.07(1) and s.
170 24(a), Art. I of the State Constitution until the conclusion of
171 the litigation or adversarial administrative proceedings. ~~For~~
172 ~~purposes of capital collateral litigation as set forth in s.~~
173 ~~27.7001, the Attorney General's office is entitled to claim this~~
174 ~~exemption for those public records prepared for direct appeal as~~
175 ~~well as for all capital collateral litigation after direct~~
176 ~~appeal until execution of sentence or imposition of a life~~
177 ~~sentence.~~

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

189 Section 6. Paragraph (c) of subsection (4) of section
190 282.201, Florida Statutes, is amended to read:

191 282.201 State data center.—The state data center is
192 established within the Agency for State Technology and shall
193 provide data center services that are hosted on premises or
194 externally through a third-party provider as an enterprise
195 information technology service. The provision of services must
196 comply with applicable state and federal laws, regulations, and
197 policies, including all applicable security, privacy, and
198 auditing requirements.

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

200 (c) The following are exempt from state data center
201 consolidation under this section: the Department of Law
202 Enforcement, the Department of the Lottery's Gaming System,
203 Systems Design and Development in the Office of Policy and
204 Budget, the regional traffic management centers as described in
205 s. 335.14(2) and the Office of Toll Operations of the Department
206 of Transportation, the State Board of Administration, state

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207 attorneys, public defenders, criminal conflict and civil
208 regional counsel, ~~capital collateral regional counsel~~, and the
209 Florida Housing Finance Corporation.

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

212 775.15 Time limitations; general time limitations;
213 exceptions.—

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

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

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

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

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

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

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

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

247 Section 12. Paragraph (c) of subsection (5) of section
248 775.021, Florida Statutes, is amended to read:

249 775.021 Rules of construction.—

250 (5) Whoever commits an act that violates a provision of
251 this code or commits a criminal offense defined by another
252 statute and thereby causes the death of, or bodily injury to, an
253 unborn child commits a separate offense if the provision or
254 statute does not otherwise specifically provide a separate
255 offense for such death or injury to an unborn child.

256 ~~(c) Notwithstanding any other provision of law, the death~~
257 ~~penalty may not be imposed for an offense under this subsection.~~

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

260 782.04 Murder.—

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

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

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

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265 perpetration of, or in the attempt to perpetrate, any:
266 1.a. Trafficking offense prohibited by s. 893.135(1),
267 2.b. Arson,
268 3.e. Sexual battery,
269 4.d. Robbery,
270 5.e. Burglary,
271 6.f. Kidnapping,
272 7.g. Escape,
273 8.h. Aggravated child abuse,
274 9.i. Aggravated abuse of an elderly person or disabled
275 adult,
276 10.j. Aircraft piracy,
277 11.k. Unlawful throwing, placing, or discharging of a
278 destructive device or bomb,
279 12.l. Carjacking,
280 13.m. Home-invasion robbery,
281 14.n. Aggravated stalking,
282 15.o. Murder of another human being,
283 16.p. Resisting an officer with violence to his or her
284 person,
285 17.q. Aggravated fleeing or eluding with serious bodily
286 injury or death,
287 18.r. Felony that is an act of terrorism or is in
288 furtherance of an act of terrorism; or
289 (c)3. Which resulted from the unlawful distribution of any
290 substance controlled under s. 893.03(1), cocaine as described in
291 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
292 compound, derivative, or preparation of opium, or methadone by a
293 person 18 years of age or older, when such drug is proven to be

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294 the proximate cause of the death of the user,
295
296 is murder in the first degree and constitutes a capital felony,
297 punishable as provided in s. 775.082.

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

301 Section 14. Paragraph (a) of subsection (9) of section
302 394.912, Florida Statutes, is amended to read:

303 394.912 Definitions.—As used in this part, the term:

304 (9) "Sexually violent offense" means:

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

307 Section 15. Subsection (1) of section 782.065, Florida
308 Statutes, is amended to read:

309 782.065 Murder; law enforcement officer, correctional
310 officer, correctional probation officer.—Notwithstanding ss.
311 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant
312 shall be sentenced to life imprisonment without eligibility for
313 release upon findings by the trier of fact that, beyond a
314 reasonable doubt:

315 (1) The defendant committed murder in the first degree in
316 violation of s. 782.04(1) and a death sentence was not imposed;
317 murder in the second or third degree in violation of s.
318 782.04(2), (3), or (4); attempted murder in the first or second
319 degree in violation of s. 782.04(1)(a) ~~782.04(1)(a)1.~~ or (2); or
320 attempted felony murder in violation of s. 782.051; and

321 Section 16. Paragraph (a) of subsection (2) of section
322 794.011, Florida Statutes, is amended to read:

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323 794.011 Sexual battery.—

324 (2) (a) A person 18 years of age or older who commits sexual
325 battery upon, or in an attempt to commit sexual battery injures
326 the sexual organs of, a person less than 12 years of age commits
327 a capital felony, punishable as provided in s. ss. 775.082 ~~and~~
328 ~~921.141~~.

329 Section 17. Paragraphs (b) through (l) of subsection (1) of
330 section 893.135, Florida Statutes, are amended to read:

331 893.135 Trafficking; mandatory sentences; suspension or
332 reduction of sentences; conspiracy to engage in trafficking.—

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

335 (b)1. Any person who knowingly sells, purchases,
336 manufactures, delivers, or brings into this state, or who is
337 knowingly in actual or constructive possession of, 28 grams or
338 more of cocaine, as described in s. 893.03(2)(a)4., or of any
339 mixture containing cocaine, but less than 150 kilograms of
340 cocaine or any such mixture, commits a felony of the first
341 degree, which felony shall be known as "trafficking in cocaine,"
342 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
343 If the quantity involved:

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

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

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

355 2. Any person who knowingly sells, purchases, manufactures,
356 delivers, or brings into this state, or who is knowingly in
357 actual or constructive possession of, 150 kilograms or more of
358 cocaine, as described in s. 893.03(2)(a)4., commits the first
359 degree felony of trafficking in cocaine. A person who has been
360 convicted of the first degree felony of trafficking in cocaine
361 under this subparagraph shall be punished by life imprisonment
362 and is ineligible for any form of discretionary early release
363 except pardon or executive clemency or conditional medical
364 release under s. 947.149. However, if the court determines that,
365 in addition to committing any act specified in this paragraph:

366 a. The person intentionally killed an individual or
367 counseled, commanded, induced, procured, or caused the
368 intentional killing of an individual and such killing was the
369 result; or

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

372
373 such person commits the capital felony of trafficking in
374 cocaine, punishable as provided in s. 775.082 and ~~921.142~~.
375 Any person sentenced for a capital felony under this paragraph
376 shall also be sentenced to pay the maximum fine provided under
377 subparagraph 1.

378 3. Any person who knowingly brings into this state 300
379 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
380 and who knows that the probable result of such importation would

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381 be the death of any person, commits capital importation of
382 cocaine, a capital felony punishable as provided in s. 893.03
383 775.082 and ~~921.142~~. Any person sentenced for a capital felony
384 under this paragraph shall also be sentenced to pay the maximum
385 fine provided under subparagraph 1.

386 (c)1. A person who knowingly sells, purchases,
387 manufactures, delivers, or brings into this state, or who is
388 knowingly in actual or constructive possession of, 4 grams or
389 more of any morphine, opium, hydromorphone, or any salt,
390 derivative, isomer, or salt of an isomer thereof, including
391 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
392 (3)(c)4., or 4 grams or more of any mixture containing any such
393 substance, but less than 30 kilograms of such substance or
394 mixture, commits a felony of the first degree, which felony
395 shall be known as "trafficking in illegal drugs," punishable as
396 provided in s. 775.082, s. 775.083, or s. 775.084. If the
397 quantity involved:

398 a. Is 4 grams or more, but less than 14 grams, such person
399 shall be sentenced to a mandatory minimum term of imprisonment
400 of 3 years and shall be ordered to pay a fine of \$50,000.

401 b. Is 14 grams or more, but less than 28 grams, such person
402 shall be sentenced to a mandatory minimum term of imprisonment
403 of 15 years and shall be ordered to pay a fine of \$100,000.

404 c. Is 28 grams or more, but less than 30 kilograms, such
405 person shall be sentenced to a mandatory minimum term of
406 imprisonment of 25 years and shall be ordered to pay a fine of
407 \$500,000.

408 2. A person who knowingly sells, purchases, manufactures,
409 delivers, or brings into this state, or who is knowingly in

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410 actual or constructive possession of, 14 grams or more of
411 hydrocodone, or any salt, derivative, isomer, or salt of an
412 isomer thereof, or 14 grams or more of any mixture containing
413 any such substance, commits a felony of the first degree, which
414 felony shall be known as "trafficking in hydrocodone,"
415 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
416 If the quantity involved:

417 a. Is 14 grams or more, but less than 28 grams, such person
418 shall be sentenced to a mandatory minimum term of imprisonment
419 of 3 years and shall be ordered to pay a fine of \$50,000.

420 b. Is 28 grams or more, but less than 50 grams, such person
421 shall be sentenced to a mandatory minimum term of imprisonment
422 of 7 years and shall be ordered to pay a fine of \$100,000.

423 c. Is 50 grams or more, but less than 200 grams, such
424 person shall be sentenced to a mandatory minimum term of
425 imprisonment of 15 years and shall be ordered to pay a fine of
426 \$500,000.

427 d. Is 200 grams or more, but less than 30 kilograms, such
428 person shall be sentenced to a mandatory minimum term of
429 imprisonment of 25 years and shall be ordered to pay a fine of
430 \$750,000.

431 3. A person who knowingly sells, purchases, manufactures,
432 delivers, or brings into this state, or who is knowingly in
433 actual or constructive possession of, 7 grams or more of
434 oxycodone, or any salt, derivative, isomer, or salt of an isomer
435 thereof, or 7 grams or more of any mixture containing any such
436 substance, commits a felony of the first degree, which felony
437 shall be known as "trafficking in oxycodone," punishable as
438 provided in s. 775.082, s. 775.083, or s. 775.084. If the

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439 quantity involved:

440 a. Is 7 grams or more, but less than 14 grams, such person
441 shall be sentenced to a mandatory minimum term of imprisonment
442 of 3 years and shall be ordered to pay a fine of \$50,000.

443 b. Is 14 grams or more, but less than 25 grams, such person
444 shall be sentenced to a mandatory minimum term of imprisonment
445 of 7 years and shall be ordered to pay a fine of \$100,000.

446 c. Is 25 grams or more, but less than 100 grams, such
447 person shall be sentenced to a mandatory minimum term of
448 imprisonment of 15 years and shall be ordered to pay a fine of
449 \$500,000.

450 d. Is 100 grams or more, but less than 30 kilograms, such
451 person shall be sentenced to a mandatory minimum term of
452 imprisonment of 25 years and shall be ordered to pay a fine of
453 \$750,000.

454 4. A person who knowingly sells, purchases, manufactures,
455 delivers, or brings into this state, or who is knowingly in
456 actual or constructive possession of, 30 kilograms or more of
457 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or
458 any salt, derivative, isomer, or salt of an isomer thereof,
459 including heroin, as described in s. 893.03(1)(b), (2)(a),
460 (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture
461 containing any such substance, commits the first degree felony
462 of trafficking in illegal drugs. A person who has been convicted
463 of the first degree felony of trafficking in illegal drugs under
464 this subparagraph shall be punished by life imprisonment and is
465 ineligible for any form of discretionary early release except
466 pardon or executive clemency or conditional medical release
467 under s. 947.149. However, if the court determines that, in

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468 addition to committing any act specified in this paragraph:

469 a. The person intentionally killed an individual or
470 counseled, commanded, induced, procured, or caused the
471 intentional killing of an individual and such killing was the
472 result; or

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

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476 such person commits the capital felony of trafficking in illegal
477 drugs, punishable as provided in s. ss. 775.082 and 921.142. A
478 person sentenced for a capital felony under this paragraph shall
479 also be sentenced to pay the maximum fine provided under
480 subparagraph 1.

481 5. A person who knowingly brings into this state 60
482 kilograms or more of any morphine, opium, oxycodone,
483 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
484 salt of an isomer thereof, including heroin, as described in s.
485 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
486 more of any mixture containing any such substance, and who knows
487 that the probable result of such importation would be the death
488 of a person, commits capital importation of illegal drugs, a
489 capital felony punishable as provided in s. ss. 775.082 and
490 921.142. A person sentenced for a capital felony under this
491 paragraph shall also be sentenced to pay the maximum fine
492 provided under subparagraph 1.

493 (d)1. Any person who knowingly sells, purchases,
494 manufactures, delivers, or brings into this state, or who is
495 knowingly in actual or constructive possession of, 28 grams or
496 more of phencyclidine or of any mixture containing

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497 phencyclidine, as described in s. 893.03(2)(b), commits a felony
498 of the first degree, which felony shall be known as "trafficking
499 in phencyclidine," punishable as provided in s. 775.082, s.
500 775.083, or s. 775.084. If the quantity involved:

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

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

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

512 2. Any person who knowingly brings into this state 800
513 grams or more of phencyclidine or of any mixture containing
514 phencyclidine, as described in s. 893.03(2)(b), and who knows
515 that the probable result of such importation would be the death
516 of any person commits capital importation of phencyclidine, a
517 capital felony punishable as provided in s. ss. 775.082 and
518 921.142. Any person sentenced for a capital felony under this
519 paragraph shall also be sentenced to pay the maximum fine
520 provided under subparagraph 1.

521 (e)1. Any person who knowingly sells, purchases,
522 manufactures, delivers, or brings into this state, or who is
523 knowingly in actual or constructive possession of, 200 grams or
524 more of methaqualone or of any mixture containing methaqualone,
525 as described in s. 893.03(1)(d), commits a felony of the first

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526 degree, which felony shall be known as "trafficking in
527 methaqualone," punishable as provided in s. 775.082, s. 775.083,
528 or s. 775.084. If the quantity involved:

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

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

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

540 2. Any person who knowingly brings into this state 50
541 kilograms or more of methaqualone or of any mixture containing
542 methaqualone, as described in s. 893.03(1)(d), and who knows
543 that the probable result of such importation would be the death
544 of any person commits capital importation of methaqualone, a
545 capital felony punishable as provided in s. 775.082 ~~and~~
546 ~~921.142~~. Any person sentenced for a capital felony under this
547 paragraph shall also be sentenced to pay the maximum fine
548 provided under subparagraph 1.

549 (f)1. Any person who knowingly sells, purchases,
550 manufactures, delivers, or brings into this state, or who is
551 knowingly in actual or constructive possession of, 14 grams or
552 more of amphetamine, as described in s. 893.03(2)(c)2., or
553 methamphetamine, as described in s. 893.03(2)(c)4., or of any
554 mixture containing amphetamine or methamphetamine, or

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555 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
556 in conjunction with other chemicals and equipment utilized in
557 the manufacture of amphetamine or methamphetamine, commits a
558 felony of the first degree, which felony shall be known as
559 "trafficking in amphetamine," punishable as provided in s.
560 775.082, s. 775.083, or s. 775.084. If the quantity involved:
561 a. Is 14 grams or more, but less than 28 grams, such person
562 shall be sentenced to a mandatory minimum term of imprisonment
563 of 3 years, and the defendant shall be ordered to pay a fine of
564 \$50,000.
565 b. Is 28 grams or more, but less than 200 grams, such
566 person shall be sentenced to a mandatory minimum term of
567 imprisonment of 7 years, and the defendant shall be ordered to
568 pay a fine of \$100,000.
569 c. Is 200 grams or more, such person shall be sentenced to
570 a mandatory minimum term of imprisonment of 15 calendar years
571 and pay a fine of \$250,000.
572 2. Any person who knowingly manufactures or brings into
573 this state 400 grams or more of amphetamine, as described in s.
574 893.03(2)(c)2., or methamphetamine, as described in s.
575 893.03(2)(c)4., or of any mixture containing amphetamine or
576 methamphetamine, or phenylacetone, phenylacetic acid,
577 pseudoephedrine, or ephedrine in conjunction with other
578 chemicals and equipment used in the manufacture of amphetamine
579 or methamphetamine, and who knows that the probable result of
580 such manufacture or importation would be the death of any person
581 commits capital manufacture or importation of amphetamine, a
582 capital felony punishable as provided in s. ss. 775.082 and
583 921.142. Any person sentenced for a capital felony under this

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584 paragraph shall also be sentenced to pay the maximum fine
585 provided under subparagraph 1.

586 (g)1. Any person who knowingly sells, purchases,
587 manufactures, delivers, or brings into this state, or who is
588 knowingly in actual or constructive possession of, 4 grams or
589 more of flunitrazepam or any mixture containing flunitrazepam as
590 described in s. 893.03(1)(a) commits a felony of the first
591 degree, which felony shall be known as "trafficking in
592 flunitrazepam," punishable as provided in s. 775.082, s.
593 775.083, or s. 775.084. If the quantity involved:

594 a. Is 4 grams or more but less than 14 grams, such person
595 shall be sentenced to a mandatory minimum term of imprisonment
596 of 3 years, and the defendant shall be ordered to pay a fine of
597 \$50,000.

598 b. Is 14 grams or more but less than 28 grams, such person
599 shall be sentenced to a mandatory minimum term of imprisonment
600 of 7 years, and the defendant shall be ordered to pay a fine of
601 \$100,000.

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

605 2. Any person who knowingly sells, purchases, manufactures,
606 delivers, or brings into this state or who is knowingly in
607 actual or constructive possession of 30 kilograms or more of
608 flunitrazepam or any mixture containing flunitrazepam as
609 described in s. 893.03(1)(a) commits the first degree felony of
610 trafficking in flunitrazepam. A person who has been convicted of
611 the first degree felony of trafficking in flunitrazepam under
612 this subparagraph shall be punished by life imprisonment and is

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613 ineligible for any form of discretionary early release except
614 pardon or executive clemency or conditional medical release
615 under s. 947.149. However, if the court determines that, in
616 addition to committing any act specified in this paragraph:

617 a. The person intentionally killed an individual or
618 counseled, commanded, induced, procured, or caused the
619 intentional killing of an individual and such killing was the
620 result; or

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

623
624 such person commits the capital felony of trafficking in
625 flunitrazepam, punishable as provided in s. ss. 775.082 ~~and~~
626 ~~921.142~~. Any person sentenced for a capital felony under this
627 paragraph shall also be sentenced to pay the maximum fine
628 provided under subparagraph 1.

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

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

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

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

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

660 (i)1. Any person who knowingly sells, purchases,
661 manufactures, delivers, or brings into this state, or who is
662 knowingly in actual or constructive possession of, 1 kilogram or
663 more of gamma-butyrolactone (GBL), as described in s.
664 893.03(1)(d), or any mixture containing gamma-butyrolactone
665 (GBL), commits a felony of the first degree, which felony shall
666 be known as "trafficking in gamma-butyrolactone (GBL),"
667 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
668 If the quantity involved:

669 a. Is 1 kilogram or more but less than 5 kilograms, such
670 person shall be sentenced to a mandatory minimum term of

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

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

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

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

690 (j)1. Any person who knowingly sells, purchases,
691 manufactures, delivers, or brings into this state, or who is
692 knowingly in actual or constructive possession of, 1 kilogram or
693 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of
694 any mixture containing 1,4-Butanediol, commits a felony of the
695 first degree, which felony shall be known as "trafficking in
696 1,4-Butanediol," punishable as provided in s. 775.082, s.
697 775.083, or s. 775.084. If the quantity involved:

698 a. Is 1 kilogram or more, but less than 5 kilograms, such
699 person shall be sentenced to a mandatory minimum term of

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

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

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

709 2. Any person who knowingly manufactures or brings into
710 this state 150 kilograms or more of 1,4-Butanediol as described
711 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
712 and who knows that the probable result of such manufacture or
713 importation would be the death of any person commits capital
714 manufacture or importation of 1,4-Butanediol, a capital felony
715 punishable as provided in s. ss. 775.082 and 921.142. Any person
716 sentenced for a capital felony under this paragraph shall also
717 be sentenced to pay the maximum fine provided under subparagraph
718 1.

719 (k)1. A person who knowingly sells, purchases,
720 manufactures, delivers, or brings into this state, or who is
721 knowingly in actual or constructive possession of, 10 grams or
722 more of any of the following substances described in s.

723 893.03(1)(c):

- 724 a. 3,4-Methylenedioxymethamphetamine (MDMA);
725 b. 4-Bromo-2,5-dimethoxyamphetamine;
726 c. 4-Bromo-2,5-dimethoxyphenethylamine;
727 d. 2,5-Dimethoxyamphetamine;
728 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);

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- 729 f. N-ethylamphetamine;
- 730 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 731 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 732 i. 4-methoxyamphetamine;
- 733 j. 4-methoxymethamphetamine;
- 734 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 735 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 736 m. 3,4-Methylenedioxyamphetamine;
- 737 n. N,N-dimethylamphetamine;
- 738 o. 3,4,5-Trimethoxyamphetamine;
- 739 p. 3,4-Methylenedioxymethcathinone;
- 740 q. 3,4-Methylenedioxypropylone (MDPV); or
- 741 r. Methylmethcathinone,

742

743 individually or analogs thereto or isomers thereto or in any

744 combination of or any mixture containing any substance listed in

745 sub-subparagraphs a.-r., commits a felony of the first degree,

746 which felony shall be known as "trafficking in Phenethylamines,"

747 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

748 2. If the quantity involved:

749 a. Is 10 grams or more, but less than 200 grams, such

750 person shall be sentenced to a mandatory minimum term of

751 imprisonment of 3 years and shall be ordered to pay a fine of

752 \$50,000.

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

754 person shall be sentenced to a mandatory minimum term of

755 imprisonment of 7 years and shall be ordered to pay a fine of

756 \$100,000.

757 c. Is 400 grams or more, such person shall be sentenced to

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758 a mandatory minimum term of imprisonment of 15 years and shall
759 be ordered to pay a fine of \$250,000.

760 3. A person who knowingly manufactures or brings into this
761 state 30 kilograms or more of any of the following substances
762 described in s. 893.03(1)(c):

- 763 a. 3,4-Methylenedioxymethamphetamine (MDMA);
764 b. 4-Bromo-2,5-dimethoxyamphetamine;
765 c. 4-Bromo-2,5-dimethoxyphenethylamine;
766 d. 2,5-Dimethoxyamphetamine;
767 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
768 f. N-ethylamphetamine;
769 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
770 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
771 i. 4-methoxyamphetamine;
772 j. 4-methoxymethamphetamine;
773 k. 4-Methyl-2,5-dimethoxyamphetamine;
774 l. 3,4-Methylenedioxy-N-ethylamphetamine;
775 m. 3,4-Methylenedioxyamphetamine;
776 n. N,N-dimethylamphetamine;
777 o. 3,4,5-Trimethoxyamphetamine;
778 p. 3,4-Methylenedioxymethcathinone;
779 q. 3,4-Methylenedioxypropylone (MDPV); or
780 r. Methylmethcathinone,

781
782 individually or analogs thereto or isomers thereto or in any
783 combination of or any mixture containing any substance listed in
784 sub-subparagraphs a.-r., and who knows that the probable result
785 of such manufacture or importation would be the death of any
786 person commits capital manufacture or importation of

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787 Phenethylamines, a capital felony punishable as provided in s.
788 ~~ss. 775.082 and 921.142~~. A person sentenced for a capital felony
789 under this paragraph shall also be sentenced to pay the maximum
790 fine provided under subparagraph 1.

791 (1)1. Any person who knowingly sells, purchases,
792 manufactures, delivers, or brings into this state, or who is
793 knowingly in actual or constructive possession of, 1 gram or
794 more of lysergic acid diethylamide (LSD) as described in s.
795 893.03(1)(c), or of any mixture containing lysergic acid
796 diethylamide (LSD), commits a felony of the first degree, which
797 felony shall be known as "trafficking in lysergic acid
798 diethylamide (LSD)," punishable as provided in s. 775.082, s.
799 775.083, or s. 775.084. If the quantity involved:

800 a. Is 1 gram or more, but less than 5 grams, such person
801 shall be sentenced to a mandatory minimum term of imprisonment
802 of 3 years, and the defendant shall be ordered to pay a fine of
803 \$50,000.

804 b. Is 5 grams or more, but less than 7 grams, such person
805 shall be sentenced to a mandatory minimum term of imprisonment
806 of 7 years, and the defendant shall be ordered to pay a fine of
807 \$100,000.

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

811 2. Any person who knowingly manufactures or brings into
812 this state 7 grams or more of lysergic acid diethylamide (LSD)
813 as described in s. 893.03(1)(c), or any mixture containing
814 lysergic acid diethylamide (LSD), and who knows that the
815 probable result of such manufacture or importation would be the

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816 death of any person commits capital manufacture or importation
817 of lysergic acid diethylamide (LSD), a capital felony punishable
818 as provided in s. ss. 775.082 and 921.142. Any person sentenced
819 for a capital felony under this paragraph shall also be
820 sentenced to pay the maximum fine provided under subparagraph 1.

821 Section 18. Sections 922.052, 922.06, 922.07, 922.08,
822 922.095, 922.10, 922.105, 922.108, 922.11, 922.111, 922.12,
823 922.14, 922.15, 924.055, 924.056, and 924.057, Florida Statutes,
824 are repealed.

825 Section 19. Subsection (4) of section 925.11, Florida
826 Statutes, is amended to read:

827 925.11 Postsentencing DNA testing.—

828 (4) PRESERVATION OF EVIDENCE.—

829 ~~(a)~~ Governmental entities that may be in possession of any
830 physical evidence in the case, including, but not limited to,
831 any investigating law enforcement agency, the clerk of the
832 court, the prosecuting authority, or the Department of Law
833 Enforcement shall maintain any physical evidence collected at
834 the time of the crime for which a postsentencing testing of DNA
835 may be requested.

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

842 Section 20. Paragraphs (g) and (h) of subsection (1) and
843 subsection (2) of section 945.10, Florida Statutes, are amended
844 to read:

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845 945.10 Confidential information.—

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

850 ~~(g) Information which identifies an executioner, or any~~
851 ~~person prescribing, preparing, compounding, dispensing, or~~
852 ~~administering a lethal injection.~~

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

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

858 (a) Information specified in paragraphs (1)(b), (d), and
859 (f) to the Office of the Governor, the Legislature, the Florida
860 Commission on Offender Review, the Department of Children and
861 Families, a private correctional facility or program that
862 operates under a 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 need not be in writing.

866 (b) Information specified in paragraphs (1)(c), (e), and
867 (g)~~(h)~~ to the Office of the Governor, the Legislature, the
868 Florida Commission on Offender Review, the Department of
869 Children and Families, a private correctional facility or
870 program that operates under contract, the Department of Legal
871 Affairs, a state attorney, the court, or a law enforcement
872 agency. A request for records or information pursuant to this
873 paragraph must be in writing and a statement provided

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874 demonstrating a need for the records or information.

875 (c) Information specified in paragraph (1)(b) to an
876 attorney representing an inmate under sentence of death, except
877 those portions of the records containing a victim's statement or
878 address, or the statement or address of a relative of the
879 victim. A request for records of information pursuant to this
880 paragraph must be in writing and a statement provided
881 demonstrating a need for the records or information.

882 (d) Information specified in paragraph (1)(b) to a public
883 defender representing a defendant, except those portions of the
884 records containing a victim's statement or address, or the
885 statement or address of a relative of the victim. A request for
886 records or information pursuant to this paragraph need not be in
887 writing.

888 (e) Information specified in paragraph (1)(b) to state or
889 local governmental agencies. A request for records or
890 information pursuant to this paragraph must be in writing and a
891 statement provided demonstrating a need for the records or
892 information.

893 (f) Information specified in paragraph (1)(b) to a person
894 conducting legitimate research. A request for records and
895 information pursuant to this paragraph must be in writing, the
896 person requesting the records or information must sign a
897 confidentiality agreement, and the department must approve the
898 request in writing.

899 (g) Information specified in paragraph (1)(a) to the
900 Department of Health and the county health department where an
901 inmate plans to reside if he or she has tested positive for the
902 presence of the antibody or antigen to human immunodeficiency

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903 virus infection.

904

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

909 Section 21. This act shall take effect July 1, 2016.