

By the Committees on Appropriations; and Criminal Justice

576-04206-16

20167068c1

1 A bill to be entitled
2 An act relating to sentencing for capital felonies;
3 amending s. 775.082, F.S.; conforming a provision to
4 changes made by the act; amending s. 782.04, F.S.;
5 requiring the prosecutor to give notice to the
6 defendant and to file the notice with the court within
7 a certain timeframe if the prosecutor intends to seek
8 the death penalty; amending ss. 921.141 and 921.142,
9 F.S.; requiring juries to determine the existence of
10 aggravating factors, if any, in the penalty phase of
11 capital cases; specifying a standard of proof for such
12 factors; requiring unanimity for such findings;
13 requiring a jury to make a recommendation to the court
14 whether the defendant shall be sentenced to life
15 imprisonment or death; specifying considerations for
16 such a recommendation; requiring a certain
17 determination by at least 10 jurors to support a
18 recommendation of a sentence of death; requiring a
19 sentence of life imprisonment without the possibility
20 of parole in certain circumstances; requiring the
21 court to enter an order meeting specified requirements
22 in each case in which it imposes a death sentence;
23 deleting provisions relating to advisory sentencing by
24 juries and findings by the court in support of
25 sentences of death; reenacting s. 794.011(2)(a), F.S.,
26 relating to sexual battery, to incorporate the
27 amendment made to s. 921.141, F.S., in a reference
28 thereto; reenacting s. 893.135(1)(b) through (l),
29 F.S., relating to trafficking in controlled
30 substances, to incorporate the amendment made to s.
31 921.142, F.S., in references thereto; providing an
32 effective date.

576-04206-16

20167068c1

33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61

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

Section 1. Paragraph (a) of subsection (1) of section 775.082, Florida Statutes, is 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 a determination ~~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.

Section 2. Subsection (1) of section 782.04, Florida Statutes, is amended to read:

782.04 Murder.—

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

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

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

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

b. Arson,

c. Sexual battery,

d. Robbery,

e. Burglary,

f. Kidnapping,

576-04206-16

20167068c1

- 62 g. Escape,
63 h. Aggravated child abuse,
64 i. Aggravated abuse of an elderly person or disabled adult,
65 j. Aircraft piracy,
66 k. Unlawful throwing, placing, or discharging of a
67 destructive device or bomb,
68 l. Carjacking,
69 m. Home-invasion robbery,
70 n. Aggravated stalking,
71 o. Murder of another human being,
72 p. Resisting an officer with violence to his or her person,
73 q. Aggravated fleeing or eluding with serious bodily injury
74 or death,
75 r. Felony that is an act of terrorism or is in furtherance
76 of an act of terrorism; or
77 3. Which resulted from the unlawful distribution of any
78 substance controlled under s. 893.03(1), cocaine as described in
79 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
80 compound, derivative, or preparation of opium, or methadone by a
81 person 18 years of age or older, when such drug is proven to be
82 the proximate cause of the death of the user,
83
84 is murder in the first degree and constitutes a capital felony,
85 punishable as provided in s. 775.082.
86 (b) In all cases under this section, the procedure set
87 forth in s. 921.141 shall be followed in order to determine
88 sentence of death or life imprisonment. If the prosecutor
89 intends to seek the death penalty, the prosecutor must give
90 notice to the defendant and file the notice with the court

576-04206-16

20167068c1

91 within 45 days after arraignment. The notice must contain a list
92 of the aggravating factors the state intends to prove and has
93 reason to believe it can prove beyond a reasonable doubt. The
94 court may allow the prosecutor to amend the notice upon a
95 showing of good cause.

96 Section 3. Section 921.141, Florida Statutes, is amended to
97 read:

98 921.141 Sentence of death or life imprisonment for capital
99 felonies; further proceedings to determine sentence.—

100 (1) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon
101 conviction or adjudication of guilt of a defendant of a capital
102 felony, the court shall conduct a separate sentencing proceeding
103 to determine whether the defendant should be sentenced to death
104 or life imprisonment as authorized by s. 775.082. The proceeding
105 shall be conducted by the trial judge before the trial jury as
106 soon as practicable. If, through impossibility or inability, the
107 trial jury is unable to reconvene for a hearing on the issue of
108 penalty, having determined the guilt of the accused, the trial
109 judge may summon a special juror or jurors as provided in
110 chapter 913 to determine the issue of the imposition of the
111 penalty. If the trial jury has been waived, or if the defendant
112 pleaded guilty, the sentencing proceeding shall be conducted
113 before a jury impaneled for that purpose, unless waived by the
114 defendant. In the proceeding, evidence may be presented as to
115 any matter that the court deems relevant to the nature of the
116 crime and the character of the defendant and shall include
117 matters relating to any of the aggravating factors enumerated in
118 subsection (6) and for which notice has been provided pursuant
119 to s. 782.04(1)(b) or mitigating circumstances enumerated in

576-04206-16

20167068c1

120 subsection (7) ~~subsections (5) and (6)~~. Any such evidence that
121 ~~which~~ the court deems to have probative value may be received,
122 regardless of its admissibility under the exclusionary rules of
123 evidence, provided the defendant is accorded a fair opportunity
124 to rebut any hearsay statements. However, this subsection shall
125 not be construed to authorize the introduction of any evidence
126 secured in violation of the Constitution of the United States or
127 the Constitution of the State of Florida. The state and the
128 defendant or the defendant's counsel shall be permitted to
129 present argument for or against sentence of death.

130 (2) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This
131 subsection applies only if the defendant has not waived his or
132 her right to a sentencing proceeding by a jury.

133 (a) After hearing all of the evidence presented regarding
134 aggravating factors and mitigating circumstances, the jury shall
135 deliberate and determine if the state has proven, beyond a
136 reasonable doubt, the existence of at least one aggravating
137 factor set forth in subsection (6).

138 (b) The jury shall return findings identifying each
139 aggravating factor found to exist. A finding that an aggravating
140 factor exists must be unanimous. If the jury:

141 1. Does not unanimously find at least one aggravating
142 factor, the defendant is ineligible for a sentence of death.

143 2. Unanimously finds at least one aggravating factor, the
144 defendant is eligible for a sentence of death and the jury shall
145 make a recommendation to the court as to whether the defendant
146 shall be sentenced to life imprisonment without the possibility
147 of parole or to death. The recommendation shall be based on a
148 weighing of all of the following:

576-04206-16

20167068c1

149 a. Whether sufficient aggravating factors exist.

150 b. Whether aggravating factors exist which outweigh the
151 mitigating circumstances found to exist.

152 c. Based on the considerations in sub-subparagraphs a. and
153 b., whether the defendant should be sentenced to life
154 imprisonment without the possibility of parole or to death.

155 (c) If at least 10 jurors determine that the defendant
156 should be sentenced to death, the jury's recommendation to the
157 court shall be a sentence of death. If fewer than 10 jurors
158 determine that the defendant should be sentenced to death, the
159 jury's recommendation to the court shall be a sentence of life
160 imprisonment without the possibility of parole.

161 (3) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

162 (a) If the jury has recommended a sentence of:

163 1. Life imprisonment without the possibility of parole, the
164 court shall impose the recommended sentence.

165 2. Death, the court, after considering each aggravating
166 factor found by the jury and all mitigating circumstances, may
167 impose a sentence of life imprisonment without the possibility
168 of parole or a sentence of death. The court may consider only an
169 aggravating factor that was unanimously found to exist by the
170 jury.

171 (b) If the defendant waived his or her right to a
172 sentencing proceeding by a jury, the court, after considering
173 all aggravating factors and mitigating circumstances, may impose
174 a sentence of life imprisonment without the possibility of
175 parole or a sentence of death. The court may impose a sentence
176 of death only if the court finds that at least one aggravating
177 factor has been proven to exist beyond a reasonable doubt.

576-04206-16

20167068c1

178 (4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—In
179 each case in which the court imposes a sentence of death, the
180 court shall, considering the records of the trial and the
181 sentencing proceedings, enter a written order addressing the
182 aggravating factors set forth in subsection (6) found to exist,
183 the mitigating circumstances in subsection (7) reasonably
184 established by the evidence, whether there are sufficient
185 aggravating factors to warrant the death penalty, and whether
186 the aggravating factors outweigh the mitigating circumstances
187 reasonably established by the evidence. If the court does not
188 issue its order requiring the death sentence within 30 days
189 after the rendition of the judgment and sentence, the court
190 shall impose a sentence of life imprisonment without the
191 possibility of parole in accordance with s. 775.082.

192 ~~(2) ADVISORY SENTENCE BY THE JURY.—After hearing all the~~
193 ~~evidence, the jury shall deliberate and render an advisory~~
194 ~~sentence to the court, based upon the following matters:~~

195 ~~(a) Whether sufficient aggravating circumstances exist as~~
196 ~~enumerated in subsection (5);~~

197 ~~(b) Whether sufficient mitigating circumstances exist which~~
198 ~~outweigh the aggravating circumstances found to exist; and~~

199 ~~(c) Based on these considerations, whether the defendant~~
200 ~~should be sentenced to life imprisonment or death.~~

201 ~~(3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—~~

202 ~~Notwithstanding the recommendation of a majority of the jury,~~
203 ~~the court, after weighing the aggravating and mitigating~~
204 ~~circumstances, shall enter a sentence of life imprisonment or~~
205 ~~death, but if the court imposes a sentence of death, it shall~~
206 ~~set forth in writing its findings upon which the sentence of~~

576-04206-16

20167068c1

207 ~~death is based as to the facts:~~

208 ~~(a) That sufficient aggravating circumstances exist as~~
209 ~~enumerated in subsection (5), and~~

210 ~~(b) That there are insufficient mitigating circumstances to~~
211 ~~outweigh the aggravating circumstances.~~

212
213 ~~In each case in which the court imposes the death sentence, the~~
214 ~~determination of the court shall be supported by specific~~
215 ~~written findings of fact based upon the circumstances in~~
216 ~~subsections (5) and (6) and upon the records of the trial and~~
217 ~~the sentencing proceedings. If the court does not make the~~
218 ~~findings requiring the death sentence within 30 days after the~~
219 ~~rendition of the judgment and sentence, the court shall impose~~
220 ~~sentence of life imprisonment in accordance with s. 775.082.~~

221 (5)~~(4)~~ REVIEW OF JUDGMENT AND SENTENCE.—The judgment of
222 conviction and sentence of death shall be subject to automatic
223 review by the Supreme Court of Florida and disposition rendered
224 within 2 years after the filing of a notice of appeal. Such
225 review by the Supreme Court shall have priority over all other
226 cases and shall be heard in accordance with rules adopted
227 ~~promulgated~~ by the Supreme Court.

228 (6)~~(5)~~ AGGRAVATING FACTORS ~~CIRCUMSTANCES~~.—Aggravating
229 factors ~~circumstances~~ shall be limited to the following:

230 (a) The capital felony was committed by a person previously
231 convicted of a felony and under sentence of imprisonment or
232 placed on community control or on felony probation.

233 (b) The defendant was previously convicted of another
234 capital felony or of a felony involving the use or threat of
235 violence to the person.

576-04206-16

20167068c1

236 (c) The defendant knowingly created a great risk of death
237 to many persons.

238 (d) The capital felony was committed while the defendant
239 was engaged, or was an accomplice, in the commission of, or an
240 attempt to commit, or flight after committing or attempting to
241 commit, any: robbery; sexual battery; aggravated child abuse;
242 abuse of an elderly person or disabled adult resulting in great
243 bodily harm, permanent disability, or permanent disfigurement;
244 arson; burglary; kidnapping; aircraft piracy; or unlawful
245 throwing, placing, or discharging of a destructive device or
246 bomb.

247 (e) The capital felony was committed for the purpose of
248 avoiding or preventing a lawful arrest or effecting an escape
249 from custody.

250 (f) The capital felony was committed for pecuniary gain.

251 (g) The capital felony was committed to disrupt or hinder
252 the lawful exercise of any governmental function or the
253 enforcement of laws.

254 (h) The capital felony was especially heinous, atrocious,
255 or cruel.

256 (i) The capital felony was a homicide and was committed in
257 a cold, calculated, and premeditated manner without any pretense
258 of moral or legal justification.

259 (j) The victim of the capital felony was a law enforcement
260 officer engaged in the performance of his or her official
261 duties.

262 (k) The victim of the capital felony was an elected or
263 appointed public official engaged in the performance of his or
264 her official duties if the motive for the capital felony was

576-04206-16

20167068c1

265 related, in whole or in part, to the victim's official capacity.

266 (l) The victim of the capital felony was a person less than
267 12 years of age.

268 (m) The victim of the capital felony was particularly
269 vulnerable due to advanced age or disability, or because the
270 defendant stood in a position of familial or custodial authority
271 over the victim.

272 (n) The capital felony was committed by a criminal gang
273 member, as defined in s. 874.03.

274 (o) The capital felony was committed by a person designated
275 as a sexual predator pursuant to s. 775.21 or a person
276 previously designated as a sexual predator who had the sexual
277 predator designation removed.

278 (p) The capital felony was committed by a person subject to
279 an injunction issued pursuant to s. 741.30 or s. 784.046, or a
280 foreign protection order accorded full faith and credit pursuant
281 to s. 741.315, and was committed against the petitioner who
282 obtained the injunction or protection order or any spouse,
283 child, sibling, or parent of the petitioner.

284 (7)~~(6)~~ MITIGATING CIRCUMSTANCES.—Mitigating circumstances
285 shall be the following:

286 (a) The defendant has no significant history of prior
287 criminal activity.

288 (b) The capital felony was committed while the defendant
289 was under the influence of extreme mental or emotional
290 disturbance.

291 (c) The victim was a participant in the defendant's conduct
292 or consented to the act.

293 (d) The defendant was an accomplice in the capital felony

576-04206-16

20167068c1

294 committed by another person and his or her participation was
295 relatively minor.

296 (e) The defendant acted under extreme duress or under the
297 substantial domination of another person.

298 (f) The capacity of the defendant to appreciate the
299 criminality of his or her conduct or to conform his or her
300 conduct to the requirements of law was substantially impaired.

301 (g) The age of the defendant at the time of the crime.

302 (h) The existence of any other factors in the defendant's
303 background that would mitigate against imposition of the death
304 penalty.

305 (8)~~(7)~~ VICTIM IMPACT EVIDENCE.—Once the prosecution has
306 provided evidence of the existence of one or more aggravating
307 factors ~~circumstances~~ as described in subsection (6) ~~(5)~~, the
308 prosecution may introduce, and subsequently argue, victim impact
309 evidence to the jury. Such evidence shall be designed to
310 demonstrate the victim's uniqueness as an individual human being
311 and the resultant loss to the community's members by the
312 victim's death. Characterizations and opinions about the crime,
313 the defendant, and the appropriate sentence shall not be
314 permitted as a part of victim impact evidence.

315 (9)~~(8)~~ APPLICABILITY.—This section does not apply to a
316 person convicted or adjudicated guilty of a capital drug
317 trafficking felony under s. 893.135.

318 Section 4. Section 921.142, Florida Statutes, is amended to
319 read:

320 921.142 Sentence of death or life imprisonment for capital
321 drug trafficking felonies; further proceedings to determine
322 sentence.—

576-04206-16

20167068c1

323 (1) FINDINGS.—The Legislature finds that trafficking in
324 cocaine or opiates carries a grave risk of death or danger to
325 the public; that a reckless disregard for human life is implicit
326 in knowingly trafficking in cocaine or opiates; and that persons
327 who traffic in cocaine or opiates may be determined by the trier
328 of fact to have a culpable mental state of reckless indifference
329 or disregard for human life.

330 (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon
331 conviction or adjudication of guilt of a defendant of a capital
332 felony under s. 893.135, the court shall conduct a separate
333 sentencing proceeding to determine whether the defendant should
334 be sentenced to death or life imprisonment as authorized by s.
335 775.082. The proceeding shall be conducted by the trial judge
336 before the trial jury as soon as practicable. If, through
337 impossibility or inability, the trial jury is unable to
338 reconvene for a hearing on the issue of penalty, having
339 determined the guilt of the accused, the trial judge may summon
340 a special juror or jurors as provided in chapter 913 to
341 determine the issue of the imposition of the penalty. If the
342 trial jury has been waived, or if the defendant pleaded guilty,
343 the sentencing proceeding shall be conducted before a jury
344 impaneled for that purpose, unless waived by the defendant. In
345 the proceeding, evidence may be presented as to any matter that
346 the court deems relevant to the nature of the crime and the
347 character of the defendant and shall include matters relating to
348 any of the aggravating factors enumerated in subsection (7) and
349 for which notice has been provided pursuant to s. 782.04(1)(b)
350 or mitigating circumstances enumerated in subsection (8)
351 ~~subsections (6) and (7)~~. Any such evidence that ~~which~~ the court

576-04206-16

20167068c1

352 deems to have probative value may be received, regardless of its
353 admissibility under the exclusionary rules of evidence, provided
354 the defendant is accorded a fair opportunity to rebut any
355 hearsay statements. However, this subsection shall not be
356 construed to authorize the introduction of any evidence secured
357 in violation of the Constitution of the United States or the
358 Constitution of the State of Florida. The state and the
359 defendant or the defendant's counsel shall be permitted to
360 present argument for or against sentence of death.

361 (3) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This
362 subsection applies only if the defendant has not waived his or
363 her right to a sentencing proceeding by a jury.

364 (a) After hearing all of the evidence presented regarding
365 aggravating factors and mitigating circumstances, the jury shall
366 deliberate and determine if the state has proven, beyond a
367 reasonable doubt, the existence of at least one aggravating
368 factor set forth in subsection (7).

369 (b) The jury shall return findings identifying each
370 aggravating factor found to exist. A finding that an aggravating
371 factor exists must be unanimous. If the jury:

372 1. Does not unanimously find at least one aggravating
373 factor, the defendant is ineligible for a sentence of death.

374 2. Unanimously finds at least one aggravating factor, the
375 defendant is eligible for a sentence of death and the jury shall
376 make a recommendation to the court as to whether the defendant
377 shall be sentenced to life imprisonment without the possibility
378 of parole or to death. The recommendation shall be based on a
379 weighing of all of the following:

380 a. Whether sufficient aggravating factors exist.

576-04206-16

20167068c1

381 b. Whether aggravating factors exist which outweigh the
382 mitigating circumstances found to exist.

383 c. Based on the considerations in sub-subparagraphs a. and
384 b., whether the defendant should be sentenced to life
385 imprisonment without the possibility of parole or to death.

386 (c) If at least 10 jurors determine that the defendant
387 should be sentenced to death, the jury's recommendation to the
388 court shall be a sentence of death. If fewer than 10 jurors
389 determine that the defendant should be sentenced to death, the
390 jury's recommendation to the court shall be a sentence of life
391 imprisonment without the possibility of parole.

392 (4) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

393 (a) If the jury has recommended a sentence of:

394 1. Life imprisonment without the possibility of parole, the
395 court shall impose the recommended sentence.

396 2. Death, the court, after considering each aggravating
397 factor found by the jury and all mitigating circumstances, may
398 impose a sentence of life imprisonment without the possibility
399 of parole or a sentence of death. The court may consider only an
400 aggravating factor that was unanimously found to exist by the
401 jury.

402 (b) If the defendant waived his or her right to a
403 sentencing proceeding by a jury, the court, after considering
404 all aggravating factors and mitigating circumstances, may impose
405 a sentence of life imprisonment without the possibility of
406 parole or a sentence of death. The court may impose a sentence
407 of death only if the court finds at least one aggravating factor
408 has been proven to exist beyond a reasonable doubt.

409 (5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—In

576-04206-16

20167068c1

410 each case in which the court imposes a death sentence, the court
411 shall, considering the records of the trial and the sentencing
412 proceedings, enter a written order addressing the aggravating
413 factors set forth in subsection (7) found to exist, the
414 mitigating circumstances in subsection (8) reasonably
415 established by the evidence, whether there are sufficient
416 aggravating factors to warrant the death penalty, and whether
417 the aggravating factors outweigh the mitigating circumstances
418 reasonably established by the evidence. If the court does not
419 issue its order requiring the death sentence within 30 days
420 after the rendition of the judgment and sentence, the court
421 shall impose a sentence of life imprisonment without the
422 possibility of parole in accordance with s. 775.082.

423 ~~(3) ADVISORY SENTENCE BY THE JURY. After hearing all the~~
424 ~~evidence, the jury shall deliberate and render an advisory~~
425 ~~sentence to the court, based upon the following matters:~~

426 ~~(a) Whether sufficient aggravating circumstances exist as~~
427 ~~enumerated in subsection (6);~~

428 ~~(b) Whether sufficient mitigating circumstances exist which~~
429 ~~outweigh the aggravating circumstances found to exist; and~~

430 ~~(c) Based on these considerations, whether the defendant~~
431 ~~should be sentenced to life imprisonment or death.~~

432 ~~(4) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—~~

433 ~~Notwithstanding the recommendation of a majority of the jury,~~
434 ~~the court, after weighing the aggravating and mitigating~~
435 ~~circumstances, shall enter a sentence of life imprisonment or~~
436 ~~death, but if the court imposes a sentence of death, it shall~~
437 ~~set forth in writing its findings upon which the sentence of~~
438 ~~death is based as to the facts:~~

576-04206-16

20167068c1

439 ~~(a) That sufficient aggravating circumstances exist as~~
440 ~~enumerated in subsection (6), and~~

441 ~~(b) That there are insufficient mitigating circumstances to~~
442 ~~outweigh the aggravating circumstances.~~

443
444 ~~In each case in which the court imposes the death sentence, the~~
445 ~~determination of the court shall be supported by specific~~
446 ~~written findings of fact based upon the circumstances in~~
447 ~~subsections (6) and (7) and upon the records of the trial and~~
448 ~~the sentencing proceedings. If the court does not make the~~
449 ~~findings requiring the death sentence within 30 days after the~~
450 ~~rendition of the judgment and sentence, the court shall impose~~
451 ~~sentence of life imprisonment in accordance with s. 775.082, and~~
452 ~~that person shall be ineligible for parole.~~

453 (6)~~(5)~~ REVIEW OF JUDGMENT AND SENTENCE.—The judgment of
454 conviction and sentence of death shall be subject to automatic
455 review and disposition rendered by the Supreme Court of Florida
456 within 2 years after the filing of a notice of appeal. Such
457 review by the Supreme Court shall have priority over all other
458 cases and shall be heard in accordance with rules promulgated by
459 the Supreme Court.

460 (7)~~(6)~~ AGGRAVATING FACTORS CIRCUMSTANCES.—Aggravating
461 factors ~~circumstances~~ shall be limited to the following:

462 (a) The capital felony was committed by a person under a
463 sentence of imprisonment.

464 (b) The defendant was previously convicted of another
465 capital felony or of a state or federal offense involving the
466 distribution of a controlled substance which ~~that~~ is punishable
467 by a sentence of at least 1 year of imprisonment.

576-04206-16

20167068c1

468 (c) The defendant knowingly created grave risk of death to
469 one or more persons such that participation in the offense
470 constituted reckless indifference or disregard for human life.

471 (d) The defendant used a firearm or knowingly directed,
472 advised, authorized, or assisted another to use a firearm to
473 threaten, intimidate, assault, or injure a person in committing
474 the offense or in furtherance of the offense.

475 (e) The offense involved the distribution of controlled
476 substances to persons under the age of 18 years, the
477 distribution of controlled substances within school zones, or
478 the use or employment of persons under the age of 18 years in
479 aid of distribution of controlled substances.

480 (f) The offense involved distribution of controlled
481 substances known to contain a potentially lethal adulterant.

482 (g) The defendant:

483 1. Intentionally killed the victim;

484 2. Intentionally inflicted serious bodily injury that ~~which~~
485 resulted in the death of the victim; or

486 3. Intentionally engaged in conduct intending that the
487 victim be killed or that lethal force be employed against the
488 victim, which resulted in the death of the victim.

489 (h) The defendant committed the offense as consideration
490 for the receipt, or in the expectation of the receipt, of
491 anything of pecuniary value.

492 (i) The defendant committed the offense after planning and
493 premeditation.

494 (j) The defendant committed the offense in a heinous,
495 cruel, or depraved manner in that the offense involved torture
496 or serious physical abuse to the victim.

576-04206-16

20167068c1

497 (8)~~(7)~~ MITIGATING CIRCUMSTANCES.—Mitigating circumstances
498 shall include the following:

499 (a) The defendant has no significant history of prior
500 criminal activity.

501 (b) The capital felony was committed while the defendant
502 was under the influence of extreme mental or emotional
503 disturbance.

504 (c) The defendant was an accomplice in the capital felony
505 committed by another person, and the defendant's participation
506 was relatively minor.

507 (d) The defendant was under extreme duress or under the
508 substantial domination of another person.

509 (e) The capacity of the defendant to appreciate the
510 criminality of her or his conduct or to conform her or his
511 conduct to the requirements of law was substantially impaired.

512 (f) The age of the defendant at the time of the offense.

513 (g) The defendant could not have reasonably foreseen that
514 her or his conduct in the course of the commission of the
515 offense would cause or would create a grave risk of death to one
516 or more persons.

517 (h) The existence of any other factors in the defendant's
518 background that would mitigate against imposition of the death
519 penalty.

520 (9)~~(8)~~ VICTIM IMPACT EVIDENCE.—Once the prosecution has
521 provided evidence of the existence of one or more aggravating
522 factors ~~circumstances~~ as described in subsection (7) ~~(6)~~, the
523 prosecution may introduce, and subsequently argue, victim impact
524 evidence. Such evidence shall be designed to demonstrate the
525 victim's uniqueness as an individual human being and the

576-04206-16

20167068c1

526 resultant loss to the community's members by the victim's death.
527 Characterizations and opinions about the crime, the defendant,
528 and the appropriate sentence shall not be permitted as a part of
529 victim impact evidence.

530 Section 5. For the purpose of incorporating the amendment
531 made by this act to section 921.141, Florida Statutes, in a
532 reference thereto, paragraph (a) of subsection (2) of section
533 794.011, Florida Statutes, is reenacted to read:

534 794.011 Sexual battery.—

535 (2) (a) A person 18 years of age or older who commits sexual
536 battery upon, or in an attempt to commit sexual battery injures
537 the sexual organs of, a person less than 12 years of age commits
538 a capital felony, punishable as provided in ss. 775.082 and
539 921.141.

540 Section 6. For the purpose of incorporating the amendment
541 made by this act to section 921.142, Florida Statutes, in
542 references thereto, paragraphs (b) through (l) of subsection (1)
543 of section 893.135, Florida Statutes, are reenacted to read:

544 893.135 Trafficking; mandatory sentences; suspension or
545 reduction of sentences; conspiracy to engage in trafficking.—

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

548 (b)1. Any person who knowingly sells, purchases,
549 manufactures, delivers, or brings into this state, or who is
550 knowingly in actual or constructive possession of, 28 grams or
551 more of cocaine, as described in s. 893.03(2)(a)4., or of any
552 mixture containing cocaine, but less than 150 kilograms of
553 cocaine or any such mixture, commits a felony of the first
554 degree, which felony shall be known as "trafficking in cocaine,"

576-04206-16

20167068c1

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

556 If the quantity involved:

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

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

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

568 2. Any person who knowingly sells, purchases, manufactures,
569 delivers, or brings into this state, or who is knowingly in
570 actual or constructive possession of, 150 kilograms or more of
571 cocaine, as described in s. 893.03(2)(a)4., commits the first
572 degree felony of trafficking in cocaine. A person who has been
573 convicted of the first degree felony of trafficking in cocaine
574 under this subparagraph shall be punished by life imprisonment
575 and is ineligible for any form of discretionary early release
576 except pardon or executive clemency or conditional medical
577 release under s. 947.149. However, if the court determines that,
578 in addition to committing any act specified in this paragraph:

579 a. The person intentionally killed an individual or
580 counseled, commanded, induced, procured, or caused the
581 intentional killing of an individual and such killing was the
582 result; or

583 b. The person's conduct in committing that act led to a

576-04206-16

20167068c1

584 natural, though not inevitable, lethal result,

585

586 such person commits the capital felony of trafficking in
587 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
588 person sentenced for a capital felony under this paragraph shall
589 also be sentenced to pay the maximum fine provided under
590 subparagraph 1.

591 3. Any person who knowingly brings into this state 300
592 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
593 and who knows that the probable result of such importation would
594 be the death of any person, commits capital importation of
595 cocaine, a capital felony punishable as provided in ss. 775.082
596 and 921.142. Any person sentenced for a capital felony under
597 this paragraph shall also be sentenced to pay the maximum fine
598 provided under subparagraph 1.

599 (c)1. A person who knowingly sells, purchases,
600 manufactures, delivers, or brings into this state, or who is
601 knowingly in actual or constructive possession of, 4 grams or
602 more of any morphine, opium, hydromorphone, or any salt,
603 derivative, isomer, or salt of an isomer thereof, including
604 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
605 (3)(c)4., or 4 grams or more of any mixture containing any such
606 substance, but less than 30 kilograms of such substance or
607 mixture, commits a felony of the first degree, which felony
608 shall be known as "trafficking in illegal drugs," punishable as
609 provided in s. 775.082, s. 775.083, or s. 775.084. If the
610 quantity involved:

611 a. Is 4 grams or more, but less than 14 grams, such person
612 shall be sentenced to a mandatory minimum term of imprisonment

576-04206-16

20167068c1

613 of 3 years and shall be ordered to pay a fine of \$50,000.

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

617 c. Is 28 grams or more, but less than 30 kilograms, such
618 person shall be sentenced to a mandatory minimum term of
619 imprisonment of 25 years and shall be ordered to pay a fine of
620 \$500,000.

621 2. A person who knowingly sells, purchases, manufactures,
622 delivers, or brings into this state, or who is knowingly in
623 actual or constructive possession of, 14 grams or more of
624 hydrocodone, or any salt, derivative, isomer, or salt of an
625 isomer thereof, or 14 grams or more of any mixture containing
626 any such substance, commits a felony of the first degree, which
627 felony shall be known as "trafficking in hydrocodone,"
628 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
629 If the quantity involved:

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

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

636 c. Is 50 grams or more, but less than 200 grams, such
637 person shall be sentenced to a mandatory minimum term of
638 imprisonment of 15 years and shall be ordered to pay a fine of
639 \$500,000.

640 d. Is 200 grams or more, but less than 30 kilograms, such
641 person shall be sentenced to a mandatory minimum term of

576-04206-16

20167068c1

642 imprisonment of 25 years and shall be ordered to pay a fine of
643 \$750,000.

644 3. A person who knowingly sells, purchases, manufactures,
645 delivers, or brings into this state, or who is knowingly in
646 actual or constructive possession of, 7 grams or more of
647 oxycodone, or any salt, derivative, isomer, or salt of an isomer
648 thereof, or 7 grams or more of any mixture containing any such
649 substance, commits a felony of the first degree, which felony
650 shall be known as "trafficking in oxycodone," punishable as
651 provided in s. 775.082, s. 775.083, or s. 775.084. If the
652 quantity involved:

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

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

659 c. Is 25 grams or more, but less than 100 grams, such
660 person shall be sentenced to a mandatory minimum term of
661 imprisonment of 15 years and shall be ordered to pay a fine of
662 \$500,000.

663 d. Is 100 grams or more, but less than 30 kilograms, such
664 person shall be sentenced to a mandatory minimum term of
665 imprisonment of 25 years and shall be ordered to pay a fine of
666 \$750,000.

667 4. A person who knowingly sells, purchases, manufactures,
668 delivers, or brings into this state, or who is knowingly in
669 actual or constructive possession of, 30 kilograms or more of
670 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or

576-04206-16

20167068c1

671 any salt, derivative, isomer, or salt of an isomer thereof,
672 including heroin, as described in s. 893.03(1)(b), (2)(a),
673 (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture
674 containing any such substance, commits the first degree felony
675 of trafficking in illegal drugs. A person who has been convicted
676 of the first degree felony of trafficking in illegal drugs under
677 this subparagraph shall be punished by life imprisonment and is
678 ineligible for any form of discretionary early release except
679 pardon or executive clemency or conditional medical release
680 under s. 947.149. However, if the court determines that, in
681 addition to committing any act specified in this paragraph:

682 a. The person intentionally killed an individual or
683 counseled, commanded, induced, procured, or caused the
684 intentional killing of an individual and such killing was the
685 result; or

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

688
689 such person commits the capital felony of trafficking in illegal
690 drugs, punishable as provided in ss. 775.082 and 921.142. A
691 person sentenced for a capital felony under this paragraph shall
692 also be sentenced to pay the maximum fine provided under
693 subparagraph 1.

694 5. A person who knowingly brings into this state 60
695 kilograms or more of any morphine, opium, oxycodone,
696 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
697 salt of an isomer thereof, including heroin, as described in s.
698 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
699 more of any mixture containing any such substance, and who knows

576-04206-16

20167068c1

700 that the probable result of such importation would be the death
701 of a person, commits capital importation of illegal drugs, a
702 capital felony punishable as provided in ss. 775.082 and
703 921.142. A person sentenced for a capital felony under this
704 paragraph shall also be sentenced to pay the maximum fine
705 provided under subparagraph 1.

706 (d)1. Any person who knowingly sells, purchases,
707 manufactures, delivers, or brings into this state, or who is
708 knowingly in actual or constructive possession of, 28 grams or
709 more of phencyclidine or of any mixture containing
710 phencyclidine, as described in s. 893.03(2)(b), commits a felony
711 of the first degree, which felony shall be known as "trafficking
712 in phencyclidine," punishable as provided in s. 775.082, s.
713 775.083, or s. 775.084. If the quantity involved:

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

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

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

725 2. Any person who knowingly brings into this state 800
726 grams or more of phencyclidine or of any mixture containing
727 phencyclidine, as described in s. 893.03(2)(b), and who knows
728 that the probable result of such importation would be the death

576-04206-16

20167068c1

729 of any person commits capital importation of phencyclidine, a
730 capital felony punishable as provided in ss. 775.082 and
731 921.142. Any person sentenced for a capital felony under this
732 paragraph shall also be sentenced to pay the maximum fine
733 provided under subparagraph 1.

734 (e)1. Any person who knowingly sells, purchases,
735 manufactures, delivers, or brings into this state, or who is
736 knowingly in actual or constructive possession of, 200 grams or
737 more of methaqualone or of any mixture containing methaqualone,
738 as described in s. 893.03(1)(d), commits a felony of the first
739 degree, which felony shall be known as "trafficking in
740 methaqualone," punishable as provided in s. 775.082, s. 775.083,
741 or s. 775.084. If the quantity involved:

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

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

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

753 2. Any person who knowingly brings into this state 50
754 kilograms or more of methaqualone or of any mixture containing
755 methaqualone, as described in s. 893.03(1)(d), and who knows
756 that the probable result of such importation would be the death
757 of any person commits capital importation of methaqualone, a

576-04206-16

20167068c1

758 capital felony punishable as provided in ss. 775.082 and
759 921.142. Any person sentenced for a capital felony under this
760 paragraph shall also be sentenced to pay the maximum fine
761 provided under subparagraph 1.

762 (f)1. Any person who knowingly sells, purchases,
763 manufactures, delivers, or brings into this state, or who is
764 knowingly in actual or constructive possession of, 14 grams or
765 more of amphetamine, as described in s. 893.03(2)(c)2., or
766 methamphetamine, as described in s. 893.03(2)(c)4., or of any
767 mixture containing amphetamine or methamphetamine, or
768 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
769 in conjunction with other chemicals and equipment utilized in
770 the manufacture of amphetamine or methamphetamine, commits a
771 felony of the first degree, which felony shall be known as
772 "trafficking in amphetamine," punishable as provided in s.
773 775.082, s. 775.083, or s. 775.084. If the quantity involved:

774 a. Is 14 grams or more, but less than 28 grams, such person
775 shall be sentenced to a mandatory minimum term of imprisonment
776 of 3 years, and the defendant shall be ordered to pay a fine of
777 \$50,000.

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

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

785 2. Any person who knowingly manufactures or brings into
786 this state 400 grams or more of amphetamine, as described in s.

576-04206-16

20167068c1

787 893.03(2)(c)2., or methamphetamine, as described in s.
788 893.03(2)(c)4., or of any mixture containing amphetamine or
789 methamphetamine, or phenylacetone, phenylacetic acid,
790 pseudoephedrine, or ephedrine in conjunction with other
791 chemicals and equipment used in the manufacture of amphetamine
792 or methamphetamine, and who knows that the probable result of
793 such manufacture or importation would be the death of any person
794 commits capital manufacture or importation of amphetamine, a
795 capital felony punishable as provided in ss. 775.082 and
796 921.142. Any person sentenced for a capital felony under this
797 paragraph shall also be sentenced to pay the maximum fine
798 provided under subparagraph 1.

799 (g)1. Any person who knowingly sells, purchases,
800 manufactures, delivers, or brings into this state, or who is
801 knowingly in actual or constructive possession of, 4 grams or
802 more of flunitrazepam or any mixture containing flunitrazepam as
803 described in s. 893.03(1)(a) commits a felony of the first
804 degree, which felony shall be known as "trafficking in
805 flunitrazepam," punishable as provided in s. 775.082, s.
806 775.083, or s. 775.084. If the quantity involved:

807 a. Is 4 grams or more but less than 14 grams, such person
808 shall be sentenced to a mandatory minimum term of imprisonment
809 of 3 years, and the defendant shall be ordered to pay a fine of
810 \$50,000.

811 b. Is 14 grams or more but less than 28 grams, such person
812 shall be sentenced to a mandatory minimum term of imprisonment
813 of 7 years, and the defendant shall be ordered to pay a fine of
814 \$100,000.

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

576-04206-16

20167068c1

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

818 2. Any person who knowingly sells, purchases, manufactures,
819 delivers, or brings into this state or who is knowingly in
820 actual or constructive possession of 30 kilograms or more of
821 flunitrazepam or any mixture containing flunitrazepam as
822 described in s. 893.03(1)(a) commits the first degree felony of
823 trafficking in flunitrazepam. A person who has been convicted of
824 the first degree felony of trafficking in flunitrazepam under
825 this subparagraph shall be punished by life imprisonment and is
826 ineligible for any form of discretionary early release except
827 pardon or executive clemency or conditional medical release
828 under s. 947.149. However, if the court determines that, in
829 addition to committing any act specified in this paragraph:

830 a. The person intentionally killed an individual or
831 counseled, commanded, induced, procured, or caused the
832 intentional killing of an individual and such killing was the
833 result; or

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

836
837 such person commits the capital felony of trafficking in
838 flunitrazepam, punishable as provided in ss. 775.082 and
839 921.142. Any person sentenced for a capital felony under this
840 paragraph shall also be sentenced to pay the maximum fine
841 provided under subparagraph 1.

842 (h)1. Any person who knowingly sells, purchases,
843 manufactures, delivers, or brings into this state, or who is
844 knowingly in actual or constructive possession of, 1 kilogram or

576-04206-16

20167068c1

845 more of gamma-hydroxybutyric acid (GHB), as described in s.
846 893.03(1)(d), or any mixture containing gamma-hydroxybutyric
847 acid (GHB), commits a felony of the first degree, which felony
848 shall be known as "trafficking in gamma-hydroxybutyric acid
849 (GHB)," punishable as provided in s. 775.082, s. 775.083, or s.
850 775.084. If the quantity involved:

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

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

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

862 2. Any person who knowingly manufactures or brings into
863 this state 150 kilograms or more of gamma-hydroxybutyric acid
864 (GHB), as described in s. 893.03(1)(d), or any mixture
865 containing gamma-hydroxybutyric acid (GHB), and who knows that
866 the probable result of such manufacture or importation would be
867 the death of any person commits capital manufacture or
868 importation of gamma-hydroxybutyric acid (GHB), a capital felony
869 punishable as provided in ss. 775.082 and 921.142. Any person
870 sentenced for a capital felony under this paragraph shall also
871 be sentenced to pay the maximum fine provided under subparagraph
872 1.

873 (i)1. Any person who knowingly sells, purchases,

576-04206-16

20167068c1

874 manufactures, delivers, or brings into this state, or who is
875 knowingly in actual or constructive possession of, 1 kilogram or
876 more of gamma-butyrolactone (GBL), as described in s.
877 893.03(1)(d), or any mixture containing gamma-butyrolactone
878 (GBL), commits a felony of the first degree, which felony shall
879 be known as "trafficking in gamma-butyrolactone (GBL),"
880 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
881 If the quantity involved:

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

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

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

893 2. Any person who knowingly manufactures or brings into the
894 state 150 kilograms or more of gamma-butyrolactone (GBL), as
895 described in s. 893.03(1)(d), or any mixture containing gamma-
896 butyrolactone (GBL), and who knows that the probable result of
897 such manufacture or importation would be the death of any person
898 commits capital manufacture or importation of gamma-
899 butyrolactone (GBL), a capital felony punishable as provided in
900 ss. 775.082 and 921.142. Any person sentenced for a capital
901 felony under this paragraph shall also be sentenced to pay the
902 maximum fine provided under subparagraph 1.

576-04206-16

20167068c1

903 (j)1. Any person who knowingly sells, purchases,
904 manufactures, delivers, or brings into this state, or who is
905 knowingly in actual or constructive possession of, 1 kilogram or
906 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of
907 any mixture containing 1,4-Butanediol, commits a felony of the
908 first degree, which felony shall be known as "trafficking in
909 1,4-Butanediol," punishable as provided in s. 775.082, s.
910 775.083, or s. 775.084. If the quantity involved:

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

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

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

922 2. Any person who knowingly manufactures or brings into
923 this state 150 kilograms or more of 1,4-Butanediol as described
924 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
925 and who knows that the probable result of such manufacture or
926 importation would be the death of any person commits capital
927 manufacture or importation of 1,4-Butanediol, a capital felony
928 punishable as provided in ss. 775.082 and 921.142. Any person
929 sentenced for a capital felony under this paragraph shall also
930 be sentenced to pay the maximum fine provided under subparagraph
931 1.

576-04206-16

20167068c1

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

936 893.03(1)(c):

- 937 a. 3,4-Methylenedioxymethamphetamine (MDMA);
938 b. 4-Bromo-2,5-dimethoxyamphetamine;
939 c. 4-Bromo-2,5-dimethoxyphenethylamine;
940 d. 2,5-Dimethoxyamphetamine;
941 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
942 f. N-ethylamphetamine;
943 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
944 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
945 i. 4-methoxyamphetamine;
946 j. 4-methoxymethamphetamine;
947 k. 4-Methyl-2,5-dimethoxyamphetamine;
948 l. 3,4-Methylenedioxy-N-ethylamphetamine;
949 m. 3,4-Methylenedioxyamphetamine;
950 n. N,N-dimethylamphetamine;
951 o. 3,4,5-Trimethoxyamphetamine;
952 p. 3,4-Methylenedioxymethcathinone;
953 q. 3,4-Methylenedioxypropylone (MDPV); or
954 r. Methylmethcathinone,

955
956 individually or analogs thereto or isomers thereto or in any
957 combination of or any mixture containing any substance listed in
958 sub-subparagraphs a.-r., commits a felony of the first degree,
959 which felony shall be known as "trafficking in Phenethylamines,"
960 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

576-04206-16

20167068c1

- 961 2. If the quantity involved:
- 962 a. Is 10 grams or more, but less than 200 grams, such
- 963 person shall be sentenced to a mandatory minimum term of
- 964 imprisonment of 3 years and shall be ordered to pay a fine of
- 965 \$50,000.
- 966 b. Is 200 grams or more, but less than 400 grams, such
- 967 person shall be sentenced to a mandatory minimum term of
- 968 imprisonment of 7 years and shall be ordered to pay a fine of
- 969 \$100,000.
- 970 c. Is 400 grams or more, such person shall be sentenced to
- 971 a mandatory minimum term of imprisonment of 15 years and shall
- 972 be ordered to pay a fine of \$250,000.
- 973 3. A person who knowingly manufactures or brings into this
- 974 state 30 kilograms or more of any of the following substances
- 975 described in s. 893.03(1)(c):
- 976 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 977 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 978 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 979 d. 2,5-Dimethoxyamphetamine;
- 980 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 981 f. N-ethylamphetamine;
- 982 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 983 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 984 i. 4-methoxyamphetamine;
- 985 j. 4-methoxymethamphetamine;
- 986 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 987 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 988 m. 3,4-Methylenedioxyamphetamine;
- 989 n. N,N-dimethylamphetamine;

576-04206-16

20167068c1

- 990 o. 3,4,5-Trimethoxyamphetamine;
991 p. 3,4-Methylenedioxymethcathinone;
992 q. 3,4-Methylenedioxypyrovalerone (MDPV); or
993 r. Methylnmethcathinone,

994
995 individually or analogs thereto or isomers thereto or in any
996 combination of or any mixture containing any substance listed in
997 sub-subparagraphs a.-r., and who knows that the probable result
998 of such manufacture or importation would be the death of any
999 person commits capital manufacture or importation of
1000 Phenethylamines, a capital felony punishable as provided in ss.
1001 775.082 and 921.142. A person sentenced for a capital felony
1002 under this paragraph shall also be sentenced to pay the maximum
1003 fine provided under subparagraph 1.

1004 (1)1. Any person who knowingly sells, purchases,
1005 manufactures, delivers, or brings into this state, or who is
1006 knowingly in actual or constructive possession of, 1 gram or
1007 more of lysergic acid diethylamide (LSD) as described in s.
1008 893.03(1)(c), or of any mixture containing lysergic acid
1009 diethylamide (LSD), commits a felony of the first degree, which
1010 felony shall be known as "trafficking in lysergic acid
1011 diethylamide (LSD)," punishable as provided in s. 775.082, s.
1012 775.083, or s. 775.084. If the quantity involved:

1013 a. Is 1 gram or more, but less than 5 grams, such person
1014 shall be sentenced to a mandatory minimum term of imprisonment
1015 of 3 years, and the defendant shall be ordered to pay a fine of
1016 \$50,000.

1017 b. Is 5 grams or more, but less than 7 grams, such person
1018 shall be sentenced to a mandatory minimum term of imprisonment

576-04206-16

20167068c1

1019 of 7 years, and the defendant shall be ordered to pay a fine of
1020 \$100,000.

1021 c. Is 7 grams or more, such person shall be sentenced to a
1022 mandatory minimum term of imprisonment of 15 calendar years and
1023 pay a fine of \$500,000.

1024 2. Any person who knowingly manufactures or brings into
1025 this state 7 grams or more of lysergic acid diethylamide (LSD)
1026 as described in s. 893.03(1)(c), or any mixture containing
1027 lysergic acid diethylamide (LSD), and who knows that the
1028 probable result of such manufacture or importation would be the
1029 death of any person commits capital manufacture or importation
1030 of lysergic acid diethylamide (LSD), a capital felony punishable
1031 as provided in ss. 775.082 and 921.142. Any person sentenced for
1032 a capital felony under this paragraph shall also be sentenced to
1033 pay the maximum fine provided under subparagraph 1.

1034 Section 7. This act shall take effect upon becoming a law.