

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Rodríguez, J. offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. Paragraph (a) of subsection (1) of section
 7 775.082, Florida Statutes, is amended to read:

8 775.082 Penalties; applicability of sentencing structures;
 9 mandatory minimum sentences for certain reoffenders previously
 10 released from prison.—

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

Amendment No. 1

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

20 782.04 Murder.—

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

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

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

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

27 b. Arson,

28 c. Sexual battery,

29 d. Robbery,

30 e. Burglary,

31 f. Kidnapping,

32 g. Escape,

33 h. Aggravated child abuse,

34 i. Aggravated abuse of an elderly person or disabled
35 adult,

36 j. Aircraft piracy,

37 k. Unlawful throwing, placing, or discharging of a
38 destructive device or bomb,

39 l. Carjacking,

40 m. Home-invasion robbery,

41 n. Aggravated stalking,

42 o. Murder of another human being,

Amendment No. 1

43 p. Resisting an officer with violence to his or her
44 person,

45 q. Aggravated fleeing or eluding with serious bodily
46 injury or death,

47 r. Felony that is an act of terrorism or is in furtherance
48 of an act of terrorism; or

49 3. Which resulted from the unlawful distribution of any
50 substance controlled under s. 893.03(1), cocaine as described in
51 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
52 compound, derivative, or preparation of opium, or methadone by a
53 person 18 years of age or older, when such drug is proven to be
54 the proximate cause of the death of the user,

55
56 is murder in the first degree and constitutes a capital felony,
57 punishable as provided in s. 775.082.

58 (b) In all cases under this section, the procedure set
59 forth in s. 921.141 shall be followed in order to determine
60 sentence of death or life imprisonment. If the prosecutor
61 intends to seek the death penalty, the prosecutor must give
62 notice to the defendant and file the notice with the court
63 within 45 days after arraignment. The notice must contain a list
64 of the aggravating factors the state intends to prove and has
65 reason to believe it can prove beyond a reasonable doubt. The
66 court may allow the prosecutor to amend the notice upon a
67 showing of good cause.

Amendment No. 1

68 Section 3. Section 921.141, Florida Statutes, is amended
69 to read:

70 921.141 Sentence of death or life imprisonment for capital
71 felonies; further proceedings to determine sentence.—

72 (1) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon
73 conviction or adjudication of guilt of a defendant of a capital
74 felony, the court shall conduct a separate sentencing proceeding
75 to determine whether the defendant should be sentenced to death
76 or life imprisonment as authorized by s. 775.082. The proceeding
77 shall be conducted by the trial judge before the trial jury as
78 soon as practicable. If, through impossibility or inability, the
79 trial jury is unable to reconvene for a hearing on the issue of
80 penalty, having determined the guilt of the accused, the trial
81 judge may summon a special juror or jurors as provided in
82 chapter 913 to determine the issue of the imposition of the
83 penalty. If the trial jury has been waived, or if the defendant
84 pleaded guilty, the sentencing proceeding shall be conducted
85 before a jury impaneled for that purpose, unless waived by the
86 defendant. In the proceeding, evidence may be presented as to
87 any matter that the court deems relevant to the nature of the
88 crime and the character of the defendant and shall include
89 matters relating to any of the aggravating factors enumerated in
90 subsection (6) and for which notice has been provided pursuant
91 to s. 782.04(1)(b) or mitigating circumstances enumerated in
92 subsection (7) ~~subsections (5) and (6)~~. Any such evidence that
93 ~~which~~ the court deems to have probative value may be received,

396137 - h7101-STRIKE 1.docx

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Amendment No. 1

94 regardless of its admissibility under the exclusionary rules of
95 evidence, provided the defendant is accorded a fair opportunity
96 to rebut any hearsay statements. However, this subsection shall
97 not be construed to authorize the introduction of any evidence
98 secured in violation of the Constitution of the United States or
99 the Constitution of the State of Florida. The state and the
100 defendant or the defendant's counsel shall be permitted to
101 present argument for or against sentence of death.

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

105 (a) After hearing all of the evidence presented regarding
106 aggravating factors and mitigating circumstances, the jury shall
107 deliberate and determine if the state has proven, beyond a
108 reasonable doubt, the existence of at least one aggravating
109 factor set forth in subsection (6).

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

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

115 2. Unanimously finds at least one aggravating factor, the
116 defendant is eligible for a sentence of death and the jury shall
117 make a recommendation to the court as to whether the defendant
118 shall be sentenced to life imprisonment without the possibility

Amendment No. 1

119 of parole or to death. The recommendation shall be based on a
120 weighing of all of the following:

121 a. Whether sufficient aggravating factors exist.

122 b. Whether aggravating factors exist which outweigh the
123 mitigating circumstances found to exist.

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

127 (c) If a unanimous jury determines that the defendant
128 should be sentenced to death, the jury's recommendation to the
129 court shall be a sentence of death. If a less than unanimous
130 jury determines that the defendant should be sentenced to death,
131 the jury's recommendation to the court shall be a sentence of
132 life imprisonment without the possibility of parole.

133 (3) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.-

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

135 1. Life imprisonment without the possibility of parole,
136 the court shall impose the recommended sentence.

137 2. Death, the court, after considering each aggravating
138 factor found by the jury and all mitigating circumstances, may
139 impose a sentence of life imprisonment without the possibility
140 of parole or a sentence of death. The court may consider only an
141 aggravating factor that was unanimously found to exist by the
142 jury.

143 (b) If the defendant waived his or her right to a
144 sentencing proceeding by a jury, the court, after considering

Amendment No. 1

145 all aggravating factors and mitigating circumstances, may impose
146 a sentence of life imprisonment without the possibility of
147 parole or a sentence of death. The court may impose a sentence
148 of death only if the court finds that at least one aggravating
149 factor has been proven to exist beyond a reasonable doubt.

150 (4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—In
151 each case in which the court imposes a sentence of death, the
152 court shall, considering the records of the trial and the
153 sentencing proceedings, enter a written order addressing the
154 aggravating factors set forth in subsection (6) found to exist,
155 the mitigating circumstances in subsection (7) reasonably
156 established by the evidence, whether there are sufficient
157 aggravating factors to warrant the death penalty, and whether
158 the aggravating factors outweigh the mitigating circumstances
159 reasonably established by the evidence. If the court does not
160 issue its order requiring the death sentence within 30 days
161 after the rendition of the judgment and sentence, the court
162 shall impose a sentence of life imprisonment without the
163 possibility of parole in accordance with s. 775.082.

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

167 ~~(a) Whether sufficient aggravating circumstances exist as~~
168 ~~enumerated in subsection (5);~~

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

Amendment No. 1

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

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

174 ~~Notwithstanding the recommendation of a majority of the jury,~~
175 ~~the court, after weighing the aggravating and mitigating~~
176 ~~circumstances, shall enter a sentence of life imprisonment or~~
177 ~~death, but if the court imposes a sentence of death, it shall~~
178 ~~set forth in writing its findings upon which the sentence of~~
179 ~~death is based as to the facts:~~

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

182 ~~(b) That there are insufficient mitigating circumstances~~
183 ~~to outweigh the aggravating circumstances.~~

184
185 ~~In each case in which the court imposes the death sentence, the~~
186 ~~determination of the court shall be supported by specific~~
187 ~~written findings of fact based upon the circumstances in~~
188 ~~subsections (5) and (6) and upon the records of the trial and~~
189 ~~the sentencing proceedings. If the court does not make the~~
190 ~~findings requiring the death sentence within 30 days after the~~
191 ~~rendition of the judgment and sentence, the court shall impose~~
192 ~~sentence of life imprisonment in accordance with s. 775.082.~~

193 ~~(5)-(4) REVIEW OF JUDGMENT AND SENTENCE.—~~The judgment of
194 conviction and sentence of death shall be subject to automatic
195 review by the Supreme Court of Florida and disposition rendered
196 within 2 years after the filing of a notice of appeal. Such

Amendment No. 1

197 review by the Supreme Court shall have priority over all other
198 cases and shall be heard in accordance with rules adopted
199 ~~promulgated~~ by the Supreme Court.

200 (6) ~~(5)~~ AGGRAVATING FACTORS CIRCUMSTANCES.—Aggravating
201 factors ~~circumstances~~ shall be limited to the following:

202 (a) The capital felony was committed by a person
203 previously convicted of a felony and under sentence of
204 imprisonment or placed on community control or on felony
205 probation.

206 (b) The defendant was previously convicted of another
207 capital felony or of a felony involving the use or threat of
208 violence to the person.

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

211 (d) The capital felony was committed while the defendant
212 was engaged, or was an accomplice, in the commission of, or an
213 attempt to commit, or flight after committing or attempting to
214 commit, any: robbery; sexual battery; aggravated child abuse;
215 abuse of an elderly person or disabled adult resulting in great
216 bodily harm, permanent disability, or permanent disfigurement;
217 arson; burglary; kidnapping; aircraft piracy; or unlawful
218 throwing, placing, or discharging of a destructive device or
219 bomb.

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

Amendment No. 1

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

224 (g) The capital felony was committed to disrupt or hinder
225 the lawful exercise of any governmental function or the
226 enforcement of laws.

227 (h) The capital felony was especially heinous, atrocious,
228 or cruel.

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

232 (j) The victim of the capital felony was a law enforcement
233 officer engaged in the performance of his or her official
234 duties.

235 (k) The victim of the capital felony was an elected or
236 appointed public official engaged in the performance of his or
237 her official duties if the motive for the capital felony was
238 related, in whole or in part, to the victim's official capacity.

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

241 (m) The victim of the capital felony was particularly
242 vulnerable due to advanced age or disability, or because the
243 defendant stood in a position of familial or custodial authority
244 over the victim.

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

247 (o) The capital felony was committed by a person
248 designated as a sexual predator pursuant to s. 775.21 or a

Amendment No. 1

249 person previously designated as a sexual predator who had the
250 sexual predator designation removed.

251 (p) The capital felony was committed by a person subject
252 to an injunction issued pursuant to s. 741.30 or s. 784.046, or
253 a foreign protection order accorded full faith and credit
254 pursuant to s. 741.315, and was committed against the petitioner
255 who obtained the injunction or protection order or any spouse,
256 child, sibling, or parent of the petitioner.

257 ~~(7)~~ (7) MITIGATING CIRCUMSTANCES.—Mitigating circumstances
258 shall be the following:

259 (a) The defendant has no significant history of prior
260 criminal activity.

261 (b) The capital felony was committed while the defendant
262 was under the influence of extreme mental or emotional
263 disturbance.

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

266 (d) The defendant was an accomplice in the capital felony
267 committed by another person and his or her participation was
268 relatively minor.

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

271 (f) The capacity of the defendant to appreciate the
272 criminality of his or her conduct or to conform his or her
273 conduct to the requirements of law was substantially impaired.

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

Amendment No. 1

275 (h) The existence of any other factors in the defendant's
276 background that would mitigate against imposition of the death
277 penalty.

278 ~~(8)(7)~~ VICTIM IMPACT EVIDENCE.—Once the prosecution has
279 provided evidence of the existence of one or more aggravating
280 factors ~~circumstances~~ as described in subsection ~~(6)~~ ~~(5)~~, the
281 prosecution may introduce, and subsequently argue, victim impact
282 evidence to the jury. Such evidence shall be designed to
283 demonstrate the victim's uniqueness as an individual human being
284 and the resultant loss to the community's members by the
285 victim's death. Characterizations and opinions about the crime,
286 the defendant, and the appropriate sentence shall not be
287 permitted as a part of victim impact evidence.

288 ~~(9)(8)~~ APPLICABILITY.—This section does not apply to a
289 person convicted or adjudicated guilty of a capital drug
290 trafficking felony under s. 893.135.

291 Section 4. Section 921.142, Florida Statutes, is amended
292 to read:

293 921.142 Sentence of death or life imprisonment for capital
294 drug trafficking felonies; further proceedings to determine
295 sentence.—

296 (1) FINDINGS.—The Legislature finds that trafficking in
297 cocaine or opiates carries a grave risk of death or danger to
298 the public; that a reckless disregard for human life is implicit
299 in knowingly trafficking in cocaine or opiates; and that persons
300 who traffic in cocaine or opiates may be determined by the trier

Amendment No. 1

301 of fact to have a culpable mental state of reckless indifference
302 or disregard for human life.

303 (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon
304 conviction or adjudication of guilt of a defendant of a capital
305 felony under s. 893.135, the court shall conduct a separate
306 sentencing proceeding to determine whether the defendant should
307 be sentenced to death or life imprisonment as authorized by s.
308 775.082. The proceeding shall be conducted by the trial judge
309 before the trial jury as soon as practicable. If, through
310 impossibility or inability, the trial jury is unable to
311 reconvene for a hearing on the issue of penalty, having
312 determined the guilt of the accused, the trial judge may summon
313 a special juror or jurors as provided in chapter 913 to
314 determine the issue of the imposition of the penalty. If the
315 trial jury has been waived, or if the defendant pleaded guilty,
316 the sentencing proceeding shall be conducted before a jury
317 impaneled for that purpose, unless waived by the defendant. In
318 the proceeding, evidence may be presented as to any matter that
319 the court deems relevant to the nature of the crime and the
320 character of the defendant and shall include matters relating to
321 any of the aggravating factors enumerated in subsection (7) and
322 for which notice has been provided pursuant to s. 782.04(1)(b)
323 or mitigating circumstances enumerated in subsection (8)
324 ~~subsections (6) and (7)~~. Any such evidence that ~~which~~ the court
325 deems to have probative value may be received, regardless of its
326 admissibility under the exclusionary rules of evidence, provided

396137 - h7101-STRIKE 1.docx

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Amendment No. 1

327 the defendant is accorded a fair opportunity to rebut any
328 hearsay statements. However, this subsection shall not be
329 construed to authorize the introduction of any evidence secured
330 in violation of the Constitution of the United States or the
331 Constitution of the State of Florida. The state and the
332 defendant or the defendant's counsel shall be permitted to
333 present argument for or against sentence of death.

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

337 (a) After hearing all of the evidence presented regarding
338 aggravating factors and mitigating circumstances, the jury shall
339 deliberate and determine if the state has proven, beyond a
340 reasonable doubt, the existence of at least one aggravating
341 factor set forth in subsection (7).

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

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

347 2. Unanimously finds at least one aggravating factor, the
348 defendant is eligible for a sentence of death and the jury shall
349 make a recommendation to the court as to whether the defendant
350 shall be sentenced to life imprisonment without the possibility
351 of parole or to death. The recommendation shall be based on a
352 weighing of all of the following:

Amendment No. 1

353 a. Whether sufficient aggravating factors exist.

354 b. Whether aggravating factors exist which outweigh the
355 mitigating circumstances found to exist.

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

359 (c) If a unanimous jury determines that the defendant
360 should be sentenced to death, the jury's recommendation to the
361 court shall be a sentence of death. If less than a unanimous
362 jury determines that the defendant should be sentenced to death,
363 the jury's recommendation to the court shall be a sentence of
364 life imprisonment without the possibility of parole.

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

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

367 1. Life imprisonment without the possibility of parole,
368 the court shall impose the recommended sentence.

369 2. Death, the court, after considering each aggravating
370 factor found by the jury and all mitigating circumstances, may
371 impose a sentence of life imprisonment without the possibility
372 of parole or a sentence of death. The court may consider only an
373 aggravating factor that was unanimously found to exist by the
374 jury.

375 (b) If the defendant waived his or her right to a
376 sentencing proceeding by a jury, the court, after considering
377 all aggravating factors and mitigating circumstances, may impose
378 a sentence of life imprisonment without the possibility of

Amendment No. 1

379 parole or a sentence of death. The court may impose a sentence
380 of death only if the court finds at least one aggravating factor
381 has been proven to exist beyond a reasonable doubt.

382 (5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—In
383 each case in which the court imposes a death sentence, the court
384 shall, considering the records of the trial and the sentencing
385 proceedings, enter a written order addressing the aggravating
386 factors set forth in subsection (7) found to exist, the
387 mitigating circumstances in subsection (8) reasonably
388 established by the evidence, whether there are sufficient
389 aggravating factors to warrant the death penalty, and whether
390 the aggravating factors outweigh the mitigating circumstances
391 reasonably established by the evidence. If the court does not
392 issue its order requiring the death sentence within 30 days
393 after the rendition of the judgment and sentence, the court
394 shall impose a sentence of life imprisonment without the
395 possibility of parole in accordance with s. 775.082.

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

399 ~~(a) Whether sufficient aggravating circumstances exist as~~
400 ~~enumerated in subsection (6);~~

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

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

Amendment No. 1

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

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

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

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

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

~~(6)(5) REVIEW OF JUDGMENT AND SENTENCE.—~~The judgment of conviction and sentence of death shall be subject to automatic review and disposition rendered by the Supreme Court of Florida within 2 years after the filing of a notice of appeal. Such review by the Supreme Court shall have priority over all other

Amendment No. 1

431 cases and shall be heard in accordance with rules promulgated by
432 the Supreme Court.

433 ~~(7)-(6)~~ AGGRAVATING FACTORS ~~CIRCUMSTANCES~~.—Aggravating
434 factors ~~circumstances~~ shall be limited to the following:

435 (a) The capital felony was committed by a person under a
436 sentence of imprisonment.

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

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

444 (d) The defendant used a firearm or knowingly directed,
445 advised, authorized, or assisted another to use a firearm to
446 threaten, intimidate, assault, or injure a person in committing
447 the offense or in furtherance of the offense.

448 (e) The offense involved the distribution of controlled
449 substances to persons under the age of 18 years, the
450 distribution of controlled substances within school zones, or
451 the use or employment of persons under the age of 18 years in
452 aid of distribution of controlled substances.

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

455 (g) The defendant:

456 1. Intentionally killed the victim;

Amendment No. 1

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

459 3. Intentionally engaged in conduct intending that the
460 victim be killed or that lethal force be employed against the
461 victim, which resulted in the death of the victim.

462 (h) The defendant committed the offense as consideration
463 for the receipt, or in the expectation of the receipt, of
464 anything of pecuniary value.

465 (i) The defendant committed the offense after planning and
466 premeditation.

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

470 (8)~~(7)~~ MITIGATING CIRCUMSTANCES.—Mitigating circumstances
471 shall include the following:

472 (a) The defendant has no significant history of prior
473 criminal activity.

474 (b) The capital felony was committed while the defendant
475 was under the influence of extreme mental or emotional
476 disturbance.

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

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

Amendment No. 1

482 (e) The capacity of the defendant to appreciate the
483 criminality of her or his conduct or to conform her or his
484 conduct to the requirements of law was substantially impaired.

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

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

490 (h) The existence of any other factors in the defendant's
491 background that would mitigate against imposition of the death
492 penalty.

493 ~~(9)-(8)~~ VICTIM IMPACT EVIDENCE.—Once the prosecution has
494 provided evidence of the existence of one or more aggravating
495 factors ~~circumstances~~ as described in subsection (7) ~~(6)~~, the
496 prosecution may introduce, and subsequently argue, victim impact
497 evidence. Such evidence shall be designed to demonstrate the
498 victim's uniqueness as an individual human being and the
499 resultant loss to the community's members by the victim's death.
500 Characterizations and opinions about the crime, the defendant,
501 and the appropriate sentence shall not be permitted as a part of
502 victim impact evidence.

503 Section 5. For the purpose of incorporating the amendment
504 made by this act to section 921.141, Florida Statutes, in a
505 reference thereto, paragraph (a) of subsection (2) of section
506 794.011, Florida Statutes, is reenacted to read:

507 794.011 Sexual battery.—

Amendment No. 1

508 (2) (a) A person 18 years of age or older who commits
509 sexual battery upon, or in an attempt to commit sexual battery
510 injures the sexual organs of, a person less than 12 years of age
511 commits a capital felony, punishable as provided in ss. 775.082
512 and 921.141.

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

517 893.135 Trafficking; mandatory sentences; suspension or
518 reduction of sentences; conspiracy to engage in trafficking.—

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

521 (b)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, 28 grams or
524 more of cocaine, as described in s. 893.03(2)(a)4., or of any
525 mixture containing cocaine, but less than 150 kilograms of
526 cocaine or any such mixture, commits a felony of the first
527 degree, which felony shall be known as "trafficking in cocaine,"
528 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

529 If the quantity involved:

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

Amendment No. 1

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

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

541 2. Any person who knowingly sells, purchases,
542 manufactures, delivers, or brings into this state, or who is
543 knowingly in actual or constructive possession of, 150 kilograms
544 or more of cocaine, as described in s. 893.03(2)(a)4., commits
545 the first degree felony of trafficking in cocaine. A person who
546 has been convicted of the first degree felony of trafficking in
547 cocaine under this subparagraph shall be punished by life
548 imprisonment and is ineligible for any form of discretionary
549 early release except pardon or executive clemency or conditional
550 medical release under s. 947.149. However, if the court
551 determines that, in addition to committing any act specified in
552 this paragraph:

553 a. The person intentionally killed an individual or
554 counseled, commanded, induced, procured, or caused the
555 intentional killing of an individual and such killing was the
556 result; or

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

559

Amendment No. 1

560 such person commits the capital felony of trafficking in
561 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
562 person sentenced for a capital felony under this paragraph shall
563 also be sentenced to pay the maximum fine provided under
564 subparagraph 1.

565 3. Any person who knowingly brings into this state 300
566 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
567 and who knows that the probable result of such importation would
568 be the death of any person, commits capital importation of
569 cocaine, a capital felony punishable as provided in ss. 775.082
570 and 921.142. Any person sentenced for a capital felony under
571 this paragraph shall also be sentenced to pay the maximum fine
572 provided under subparagraph 1.

573 (c)1. A person who knowingly sells, purchases,
574 manufactures, delivers, or brings into this state, or who is
575 knowingly in actual or constructive possession of, 4 grams or
576 more of any morphine, opium, hydromorphone, or any salt,
577 derivative, isomer, or salt of an isomer thereof, including
578 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
579 (3)(c)4., or 4 grams or more of any mixture containing any such
580 substance, but less than 30 kilograms of such substance or
581 mixture, commits a felony of the first degree, which felony
582 shall be known as "trafficking in illegal drugs," punishable as
583 provided in s. 775.082, s. 775.083, or s. 775.084. If the
584 quantity involved:

Amendment No. 1

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

588 b. Is 14 grams or more, but less than 28 grams, such
589 person shall be sentenced to a mandatory minimum term of
590 imprisonment of 15 years and shall be ordered to pay a fine of
591 \$100,000.

592 c. Is 28 grams or more, but less than 30 kilograms, such
593 person shall be sentenced to a mandatory minimum term of
594 imprisonment of 25 years and shall be ordered to pay a fine of
595 \$500,000.

596 2. A person who knowingly sells, purchases, manufactures,
597 delivers, or brings into this state, or who is knowingly in
598 actual or constructive possession of, 14 grams or more of
599 hydrocodone, or any salt, derivative, isomer, or salt of an
600 isomer thereof, or 14 grams or more of any mixture containing
601 any such substance, commits a felony of the first degree, which
602 felony shall be known as "trafficking in hydrocodone,"
603 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
604 If the quantity involved:

605 a. Is 14 grams or more, but less than 28 grams, such
606 person shall be sentenced to a mandatory minimum term of
607 imprisonment of 3 years and shall be ordered to pay a fine of
608 \$50,000.

609 b. Is 28 grams or more, but less than 50 grams, such
610 person shall be sentenced to a mandatory minimum term of

Amendment No. 1

611 imprisonment of 7 years and shall be ordered to pay a fine of
612 \$100,000.

613 c. Is 50 grams or more, but less than 200 grams, such
614 person shall be sentenced to a mandatory minimum term of
615 imprisonment of 15 years and shall be ordered to pay a fine of
616 \$500,000.

617 d. Is 200 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 \$750,000.

621 3. 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, 7 grams or more of
624 oxycodone, or any salt, derivative, isomer, or salt of an isomer
625 thereof, or 7 grams or more of any mixture containing any such
626 substance, commits a felony of the first degree, which felony
627 shall be known as "trafficking in oxycodone," punishable as
628 provided in s. 775.082, s. 775.083, or s. 775.084. If the
629 quantity involved:

630 a. Is 7 grams or more, but less than 14 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 14 grams or more, but less than 25 grams, such
634 person shall be sentenced to a mandatory minimum term of
635 imprisonment of 7 years and shall be ordered to pay a fine of
636 \$100,000.

Amendment No. 1

637 c. Is 25 grams or more, but less than 100 grams, such
638 person shall be sentenced to a mandatory minimum term of
639 imprisonment of 15 years and shall be ordered to pay a fine of
640 \$500,000.

641 d. Is 100 grams or more, but less than 30 kilograms, such
642 person shall be sentenced to a mandatory minimum term of
643 imprisonment of 25 years and shall be ordered to pay a fine of
644 \$750,000.

645 4. A person who knowingly sells, purchases, manufactures,
646 delivers, or brings into this state, or who is knowingly in
647 actual or constructive possession of, 30 kilograms or more of
648 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or
649 any salt, derivative, isomer, or salt of an isomer thereof,
650 including heroin, as described in s. 893.03(1)(b), (2)(a),
651 (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture
652 containing any such substance, commits the first degree felony
653 of trafficking in illegal drugs. A person who has been convicted
654 of the first degree felony of trafficking in illegal drugs under
655 this subparagraph shall be punished by life imprisonment and is
656 ineligible for any form of discretionary early release except
657 pardon or executive clemency or conditional medical release
658 under s. 947.149. However, if the court determines that, in
659 addition to committing any act specified in this paragraph:

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

Amendment No. 1

662 intentional killing of an individual and such killing was the
663 result; or

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

666
667 such person commits the capital felony of trafficking in illegal
668 drugs, punishable as provided in ss. 775.082 and 921.142. A
669 person sentenced for a capital felony under this paragraph shall
670 also be sentenced to pay the maximum fine provided under
671 subparagraph 1.

672 5. A person who knowingly brings into this state 60
673 kilograms or more of any morphine, opium, oxycodone,
674 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
675 salt of an isomer thereof, including heroin, as described in s.
676 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
677 more of any mixture containing any such substance, and who knows
678 that the probable result of such importation would be the death
679 of a person, commits capital importation of illegal drugs, a
680 capital felony punishable as provided in ss. 775.082 and
681 921.142. A person sentenced for a capital felony under this
682 paragraph shall also be sentenced to pay the maximum fine
683 provided under subparagraph 1.

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

Amendment No. 1

688 phencyclidine, as described in s. 893.03(2)(b), commits a felony
689 of the first degree, which felony shall be known as "trafficking
690 in phencyclidine," punishable as provided in s. 775.082, s.
691 775.083, or s. 775.084. If the quantity involved:

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

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

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

703 2. Any person who knowingly brings into this state 800
704 grams or more of phencyclidine or of any mixture containing
705 phencyclidine, as described in s. 893.03(2)(b), and who knows
706 that the probable result of such importation would be the death
707 of any person commits capital importation of phencyclidine, a
708 capital felony punishable as provided in ss. 775.082 and
709 921.142. Any person sentenced for a capital felony under this
710 paragraph shall also be sentenced to pay the maximum fine
711 provided under subparagraph 1.

712 (e)1. Any person who knowingly sells, purchases,
713 manufactures, delivers, or brings into this state, or who is

Amendment No. 1

714 knowingly in actual or constructive possession of, 200 grams or
715 more of methaqualone or of any mixture containing methaqualone,
716 as described in s. 893.03(1)(d), commits a felony of the first
717 degree, which felony shall be known as "trafficking in
718 methaqualone," punishable as provided in s. 775.082, s. 775.083,
719 or s. 775.084. If the quantity involved:

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

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

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

731 2. Any person who knowingly brings into this state 50
732 kilograms or more of methaqualone or of any mixture containing
733 methaqualone, as described in s. 893.03(1)(d), and who knows
734 that the probable result of such importation would be the death
735 of any person commits capital importation of methaqualone, a
736 capital felony punishable as provided in ss. 775.082 and
737 921.142. Any person sentenced for a capital felony under this
738 paragraph shall also be sentenced to pay the maximum fine
739 provided under subparagraph 1.

Amendment No. 1

740 (f)1. Any person who knowingly sells, purchases,
741 manufactures, delivers, or brings into this state, or who is
742 knowingly in actual or constructive possession of, 14 grams or
743 more of amphetamine, as described in s. 893.03(2)(c)2., or
744 methamphetamine, as described in s. 893.03(2)(c)4., or of any
745 mixture containing amphetamine or methamphetamine, or
746 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
747 in conjunction with other chemicals and equipment utilized in
748 the manufacture of amphetamine or methamphetamine, commits a
749 felony of the first degree, which felony shall be known as
750 "trafficking in amphetamine," punishable as provided in s.
751 775.082, s. 775.083, or s. 775.084. If the quantity involved:
752 a. Is 14 grams or more, but less than 28 grams, such
753 person shall be sentenced to a mandatory minimum term of
754 imprisonment of 3 years, and the defendant shall be ordered to
755 pay a fine of \$50,000.
756 b. Is 28 grams or more, but less than 200 grams, such
757 person shall be sentenced to a mandatory minimum term of
758 imprisonment of 7 years, and the defendant shall be ordered to
759 pay a fine of \$100,000.
760 c. Is 200 grams or more, such person shall be sentenced to
761 a mandatory minimum term of imprisonment of 15 calendar years
762 and pay a fine of \$250,000.
763 2. Any person who knowingly manufactures or brings into
764 this state 400 grams or more of amphetamine, as described in s.
765 893.03(2)(c)2., or methamphetamine, as described in s.

Amendment No. 1

766 893.03(2)(c)4., or of any mixture containing amphetamine or
767 methamphetamine, or phenylacetone, phenylacetic acid,
768 pseudoephedrine, or ephedrine in conjunction with other
769 chemicals and equipment used in the manufacture of amphetamine
770 or methamphetamine, and who knows that the probable result of
771 such manufacture or importation would be the death of any person
772 commits capital manufacture or importation of amphetamine, a
773 capital felony punishable as provided in ss. 775.082 and
774 921.142. Any person sentenced for a capital felony under this
775 paragraph shall also be sentenced to pay the maximum fine
776 provided under subparagraph 1.

777 (g)1. Any person who knowingly sells, purchases,
778 manufactures, delivers, or brings into this state, or who is
779 knowingly in actual or constructive possession of, 4 grams or
780 more of flunitrazepam or any mixture containing flunitrazepam as
781 described in s. 893.03(1)(a) commits a felony of the first
782 degree, which felony shall be known as "trafficking in
783 flunitrazepam," punishable as provided in s. 775.082, s.
784 775.083, or s. 775.084. If the quantity involved:

785 a. Is 4 grams or more but less than 14 grams, such person
786 shall be sentenced to a mandatory minimum term of imprisonment
787 of 3 years, and the defendant shall be ordered to pay a fine of
788 \$50,000.

789 b. Is 14 grams or more but less than 28 grams, such person
790 shall be sentenced to a mandatory minimum term of imprisonment

Amendment No. 1

791 of 7 years, and the defendant shall be ordered to pay a fine of
792 \$100,000.

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

796 2. Any person who knowingly sells, purchases,
797 manufactures, delivers, or brings into this state or who is
798 knowingly in actual or constructive possession of 30 kilograms
799 or more of flunitrazepam or any mixture containing flunitrazepam
800 as described in s. 893.03(1)(a) commits the first degree felony
801 of trafficking in flunitrazepam. A person who has been convicted
802 of the first degree felony of trafficking in flunitrazepam under
803 this subparagraph shall be punished by life imprisonment and is
804 ineligible for any form of discretionary early release except
805 pardon or executive clemency or conditional medical release
806 under s. 947.149. However, if the court determines that, in
807 addition to committing any act specified in this paragraph:

808 a. The person intentionally killed an individual or
809 counseled, commanded, induced, procured, or caused the
810 intentional killing of an individual and such killing was the
811 result; or

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

814

815 such person commits the capital felony of trafficking in
816 flunitrazepam, punishable as provided in ss. 775.082 and

Amendment No. 1

817 921.142. Any person sentenced for a capital felony under this
818 paragraph shall also be sentenced to pay the maximum fine
819 provided under subparagraph 1.

820 (h)1. Any person who knowingly sells, purchases,
821 manufactures, delivers, or brings into this state, or who is
822 knowingly in actual or constructive possession of, 1 kilogram or
823 more of gamma-hydroxybutyric acid (GHB), as described in s.
824 893.03(1)(d), or any mixture containing gamma-hydroxybutyric
825 acid (GHB), commits a felony of the first degree, which felony
826 shall be known as "trafficking in gamma-hydroxybutyric acid
827 (GHB)," punishable as provided in s. 775.082, s. 775.083, or s.
828 775.084. If the quantity involved:

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

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

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

840 2. Any person who knowingly manufactures or brings into
841 this state 150 kilograms or more of gamma-hydroxybutyric acid
842 (GHB), as described in s. 893.03(1)(d), or any mixture

Amendment No. 1

843 containing gamma-hydroxybutyric acid (GHB), and who knows that
844 the probable result of such manufacture or importation would be
845 the death of any person commits capital manufacture or
846 importation of gamma-hydroxybutyric acid (GHB), a capital felony
847 punishable as provided in ss. 775.082 and 921.142. Any person
848 sentenced for a capital felony under this paragraph shall also
849 be sentenced to pay the maximum fine provided under subparagraph
850 1.

851 (i)1. Any person who knowingly sells, purchases,
852 manufactures, delivers, or brings into this state, or who is
853 knowingly in actual or constructive possession of, 1 kilogram or
854 more of gamma-butyrolactone (GBL), as described in s.
855 893.03(1)(d), or any mixture containing gamma-butyrolactone
856 (GBL), commits a felony of the first degree, which felony shall
857 be known as "trafficking in gamma-butyrolactone (GBL),"
858 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
859 If the quantity involved:

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

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

Amendment No. 1

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

871 2. Any person who knowingly manufactures or brings into
872 the state 150 kilograms or more of gamma-butyrolactone (GBL), as
873 described in s. 893.03(1)(d), or any mixture containing gamma-
874 butyrolactone (GBL), and who knows that the probable result of
875 such manufacture or importation would be the death of any person
876 commits capital manufacture or importation of gamma-
877 butyrolactone (GBL), a capital felony punishable as provided in
878 ss. 775.082 and 921.142. Any person sentenced for a capital
879 felony under this paragraph shall also be sentenced to pay the
880 maximum fine provided under subparagraph 1.

881 (j)1. Any person who knowingly sells, purchases,
882 manufactures, delivers, or brings into this state, or who is
883 knowingly in actual or constructive possession of, 1 kilogram or
884 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of
885 any mixture containing 1,4-Butanediol, commits a felony of the
886 first degree, which felony shall be known as "trafficking in
887 1,4-Butanediol," punishable as provided in s. 775.082, s.
888 775.083, or s. 775.084. If the quantity involved:

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

Amendment No. 1

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

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

900 2. Any person who knowingly manufactures or brings into
901 this state 150 kilograms or more of 1,4-Butanediol as described
902 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
903 and who knows that the probable result of such manufacture or
904 importation would be the death of any person commits capital
905 manufacture or importation of 1,4-Butanediol, a capital felony
906 punishable as provided in ss. 775.082 and 921.142. Any person
907 sentenced for a capital felony under this paragraph shall also
908 be sentenced to pay the maximum fine provided under subparagraph
909 1.

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

914 893.03(1)(c):

- 915 a. 3,4-Methylenedioxymethamphetamine (MDMA);
916 b. 4-Bromo-2,5-dimethoxyamphetamine;
917 c. 4-Bromo-2,5-dimethoxyphenethylamine;
918 d. 2,5-Dimethoxyamphetamine;

Amendment No. 1

- 919 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
920 f. N-ethylamphetamine;
921 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
922 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
923 i. 4-methoxyamphetamine;
924 j. 4-methoxymethamphetamine;
925 k. 4-Methyl-2,5-dimethoxyamphetamine;
926 l. 3,4-Methylenedioxy-N-ethylamphetamine;
927 m. 3,4-Methylenedioxyamphetamine;
928 n. N,N-dimethylamphetamine;
929 o. 3,4,5-Trimethoxyamphetamine;
930 p. 3,4-Methylenedioxymethcathinone;
931 q. 3,4-Methylenedioxypropylone (MDPV); or
932 r. Methylenedioxymethcathinone,

933

934 individually or analogs thereto or isomers thereto or in any
935 combination of or any mixture containing any substance listed in
936 sub-subparagraphs a.-r., commits a felony of the first degree,
937 which felony shall be known as "trafficking in Phenethylamines,"
938 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

939 2. If the quantity involved:

940 a. Is 10 grams or more, but less than 200 grams, such
941 person shall be sentenced to a mandatory minimum term of
942 imprisonment of 3 years and shall be ordered to pay a fine of
943 \$50,000.

Amendment No. 1

944 b. Is 200 grams or more, but less than 400 grams, such
945 person shall be sentenced to a mandatory minimum term of
946 imprisonment of 7 years and shall be ordered to pay a fine of
947 \$100,000.

948 c. Is 400 grams or more, such person shall be sentenced to
949 a mandatory minimum term of imprisonment of 15 years and shall
950 be ordered to pay a fine of \$250,000.

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

- 954 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 955 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 956 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 957 d. 2,5-Dimethoxyamphetamine;
- 958 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 959 f. N-ethylamphetamine;
- 960 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 961 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 962 i. 4-methoxyamphetamine;
- 963 j. 4-methoxymethamphetamine;
- 964 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 965 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 966 m. 3,4-Methylenedioxyamphetamine;
- 967 n. N,N-dimethylamphetamine;
- 968 o. 3,4,5-Trimethoxyamphetamine;
- 969 p. 3,4-Methylenedioxymethcathinone;

Amendment No. 1

970 q. 3,4-Methylenedioxypropylamphetamine (MDPV); or

971 r. Methylenedioxymethamphetamine,

972
973 individually or analogs thereto or isomers thereto or in any
974 combination of or any mixture containing any substance listed in
975 sub-subparagraphs a.-r., and who knows that the probable result
976 of such manufacture or importation would be the death of any
977 person commits capital manufacture or importation of
978 Phenethylamines, a capital felony punishable as provided in ss.
979 775.082 and 921.142. A person sentenced for a capital felony
980 under this paragraph shall also be sentenced to pay the maximum
981 fine provided under subparagraph 1.

982 (1)1. Any person who knowingly sells, purchases,
983 manufactures, delivers, or brings into this state, or who is
984 knowingly in actual or constructive possession of, 1 gram or
985 more of lysergic acid diethylamide (LSD) as described in s.
986 893.03(1)(c), or of any mixture containing lysergic acid
987 diethylamide (LSD), commits a felony of the first degree, which
988 felony shall be known as "trafficking in lysergic acid
989 diethylamide (LSD)," punishable as provided in s. 775.082, s.
990 775.083, or s. 775.084. If the quantity involved:

991 a. Is 1 gram or more, but less than 5 grams, such person
992 shall be sentenced to a mandatory minimum term of imprisonment
993 of 3 years, and the defendant shall be ordered to pay a fine of
994 \$50,000.

Amendment No. 1

995 b. Is 5 grams or more, but less than 7 grams, such person
996 shall be sentenced to a mandatory minimum term of imprisonment
997 of 7 years, and the defendant shall be ordered to pay a fine of
998 \$100,000.

999 c. Is 7 grams or more, such person shall be sentenced to a
1000 mandatory minimum term of imprisonment of 15 calendar years and
1001 pay a fine of \$500,000.

1002 2. Any person who knowingly manufactures or brings into
1003 this state 7 grams or more of lysergic acid diethylamide (LSD)
1004 as described in s. 893.03(1)(c), or any mixture containing
1005 lysergic acid diethylamide (LSD), and who knows that the
1006 probable result of such manufacture or importation would be the
1007 death of any person commits capital manufacture or importation
1008 of lysergic acid diethylamide (LSD), a capital felony punishable
1009 as provided in ss. 775.082 and 921.142. Any person sentenced for
1010 a capital felony under this paragraph shall also be sentenced to
1011 pay the maximum fine provided under subparagraph 1.

1012 Section 7. The amendments made by this act to ss. 775.082,
1013 782.04, 921.141, and 921.142, Florida Statutes, shall apply only
1014 to criminal acts that occur on or after the effective date of
1015 this act.

1016 Section 8. This act shall take effect upon becoming a law.
1017

1018 -----

1019 **T I T L E A M E N D M E N T**

1020 Remove everything before the enacting clause and insert:

Amendment No. 1

1021 A bill to be entitled

1022 An act relating to sentencing for capital felonies;
1023 amending s. 775.082, F.S.; conforming a provision to
1024 changes made by the act; amending s. 782.04, F.S.;
1025 requiring the prosecutor to give notice to the
1026 defendant and to file the notice with the court within
1027 a certain timeframe if the prosecutor intends to seek
1028 the death penalty; amending ss. 921.141 and 921.142,
1029 F.S.; requiring juries to determine the existence of
1030 aggravating factors, if any, in the penalty phase of
1031 capital cases; specifying a standard of proof for such
1032 factors; requiring unanimity for such findings;
1033 requiring a jury to make a recommendation to the court
1034 whether the defendant shall be sentenced to life
1035 imprisonment or death; specifying considerations for
1036 such a recommendation; requiring unanimity to support
1037 a recommendation of a sentence of death; requiring a
1038 sentence of life imprisonment without the possibility
1039 of parole in certain circumstances; requiring the
1040 court to enter an order meeting specified requirements
1041 in each case in which it imposes a death sentence;
1042 deleting provisions relating to advisory sentencing by
1043 juries and findings by the court in support of
1044 sentences of death; reenacting s. 794.011(2)(a), F.S.,
1045 relating to sexual battery, to incorporate the
1046 amendment made to s. 921.141, F.S., in a reference

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7101 (2016)

Amendment No. 1

1047 thereto; reenacting s. 893.135(1)(b) through (l),
1048 F.S., relating to trafficking in controlled
1049 substances, to incorporate the amendment made to s.
1050 921.142, F.S., in references thereto; providing
1051 applicability; providing an effective date.