

By Senator Bracy

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1 A bill to be entitled
2 An act relating to murder; amending s. 782.04, F.S.;
3 revising the elements of murder in the first degree
4 and murder in the second degree; revising the elements
5 of what constitutes felony murder, for murder in the
6 second degree; deleting provisions relating to felony
7 murder, for murder in the third degree; creating s.
8 782.041, F.S.; authorizing persons convicted under
9 certain murder provisions to file a petition with the
10 sentencing court to have his or her murder conviction
11 vacated or to be resentenced, as applicable, on or
12 after a specified date; amending ss. 27.401, 394.912,
13 775.0823, 782.065, 921.0022, 944.275, 947.146, and
14 948.012, F.S.; conforming provisions to changes made
15 by the act; amending s. 921.0024, F.S.; conforming
16 cross-references; providing an effective date.

17
18 WHEREAS, there is a need for statutory changes to more
19 equitably sentence offenders in accordance with their level of
20 involvement in homicides, and

21 WHEREAS, it is a bedrock principle of the law and of equity
22 that a person should be punished for his or her actions
23 according to his or her level of individual culpability, and

24 WHEREAS, it is necessary to amend Florida's felony murder
25 rule to limit convictions and subsequent sentencing so that the
26 laws of this state fairly address the culpability of the
27 individual and assist in the reduction of prison overcrowding,
28 which partially results from lengthy sentences that are not
29 commensurate with the culpability of the individual, NOW,

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30 THEREFORE,

31
32 Be It Enacted by the Legislature of the State of Florida:33
34 Section 1. Section 782.04, Florida Statutes, is amended to
35 read:

36 782.04 Murder.—

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

38 1. When perpetrated from a premeditated design to effect
39 the death of the person killed or any human being;40 ~~2. When committed by a person engaged in the perpetration~~
41 ~~of, or in the attempt to perpetrate, any:~~42 ~~a. Trafficking offense prohibited by s. 893.135(1),~~43 ~~b. Arson,~~44 ~~e. Sexual battery,~~45 ~~d. Robbery,~~46 ~~e. Burglary,~~47 ~~f. Kidnapping,~~48 ~~g. Escape,~~49 ~~h. Aggravated child abuse,~~50 ~~i. Aggravated abuse of an elderly person or disabled adult,~~51 ~~j. Aircraft piracy,~~52 ~~k. Unlawful throwing, placing, or discharging of a~~
53 ~~destructive device or bomb,~~54 ~~l. Carjacking,~~55 ~~m. Home invasion robbery,~~56 ~~n. Aggravated stalking,~~57 ~~o. Murder of another human being,~~58 ~~p. Resisting an officer with violence to his or her person,~~

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59 ~~q. Aggravated fleeing or eluding with serious bodily injury~~
60 ~~or death,~~

61 ~~r. Felony that is an act of terrorism or is in furtherance~~
62 ~~of an act of terrorism, including a felony under s. 775.30, s.~~
63 ~~775.32, s. 775.33, s. 775.34, or s. 775.35, or~~

64 ~~s. Human trafficking; or~~

65 2.3. Which resulted from the unlawful distribution by a
66 person 18 years of age or older of any of the following
67 substances, or mixture containing any of the following
68 substances, when such substance or mixture is proven to be the
69 proximate cause of the death of the user:

70 a. A substance controlled under s. 893.03(1);

71 b. Cocaine, as described in s. 893.03(2)(a)4.;

72 c. Opium or any synthetic or natural salt, compound,
73 derivative, or preparation of opium;

74 d. Methadone;

75 e. Alfentanil, as described in s. 893.03(2)(b)1.;

76 f. Carfentanil, as described in s. 893.03(2)(b)6.;

77 g. Fentanyl, as described in s. 893.03(2)(b)9.;

78 h. Sufentanil, as described in s. 893.03(2)(b)30.; or

79 i. A controlled substance analog, as described in s.
80 893.0356, of any substance specified in sub-subparagraphs a.-h.,

81
82 is murder in the first degree and constitutes a capital felony,
83 punishable as provided in s. 775.082.

84 (b) In all cases under this section, the procedure set
85 forth in s. 921.141 shall be followed in order to determine
86 sentence of death or life imprisonment. If the prosecutor
87 intends to seek the death penalty, the prosecutor must give

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

94 (2) The unlawful killing of a human being, when perpetrated
95 by any act imminently dangerous to another and evincing a
96 depraved mind regardless of human life, although without any
97 premeditated design to effect the death of any particular
98 individual, is murder in the second degree and constitutes a
99 felony of the first degree, punishable by imprisonment for a
100 term of years not exceeding life or as provided in s. 775.082,
101 s. 775.083, or s. 775.084.

102 (3) (a) The unlawful killing of a human being when committed
103 by a person or a participant engaged in the perpetration of, or
104 in the attempt to perpetrate, any of the violations listed in
105 paragraph (b) is murder in the second degree, a felony of the
106 first degree, punishable by imprisonment for a term of years not
107 exceeding life or as provided in s. 775.082, s. 775.083, or s.
108 775.084, only if one of the following is proven:

109 1. The person was the actual killer.
110 2. The person was not the actual killer, but, with the
111 intent to kill, aided, abetted, counseled, commanded, induced,
112 solicited, requested, or assisted the actual killer in the
113 commission of murder.

114 3. The person was a major participant in the underlying
115 felony and acted with reckless indifference to human life.

116 (b)1. Trafficking offense prohibited by s. 893.135(1).

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- 117 2. Arson.
- 118 3. Sexual battery.
- 119 4. Robbery.
- 120 5. Burglary.
- 121 6. Kidnapping.
- 122 7. Escape.
- 123 8. Aggravated child abuse.
- 124 9. Aggravated abuse of an elderly person or disabled adult.
- 125 10. Aircraft piracy.
- 126 11. Unlawful throwing, placing, or discharging of a
 127 destructive device or bomb.
- 128 12. Carjacking.
- 129 13. Home-invasion robbery.
- 130 14. Aggravated stalking.
- 131 15. Murder of another human being.
- 132 16. Resisting an officer with violence to his or her
 133 person.
- 134 17. Aggravated fleeing or eluding with serious bodily
 135 injury or death.
- 136 18. A felony that is an act of terrorism or is in
 137 furtherance of an act of terrorism, including a felony under s.
 138 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35.
- 139 19. Human trafficking.
- 140 ~~(3) When a human being is killed during the perpetration~~
 141 ~~of, or during the attempt to perpetrate, any:~~
- 142 ~~(a) Trafficking offense prohibited by s. 893.135(1),~~
- 143 ~~(b) Arson,~~
- 144 ~~(c) Sexual battery,~~
- 145 ~~(d) Robbery,~~

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146 ~~(e) Burglary,~~
147 ~~(f) Kidnapping,~~
148 ~~(g) Escape,~~
149 ~~(h) Aggravated child abuse,~~
150 ~~(i) Aggravated abuse of an elderly person or disabled~~
151 ~~adult,~~
152 ~~(j) Aircraft piracy,~~
153 ~~(k) Unlawful throwing, placing, or discharging of a~~
154 ~~destructive device or bomb,~~
155 ~~(l) Carjacking,~~
156 ~~(m) Home invasion robbery,~~
157 ~~(n) Aggravated stalking,~~
158 ~~(o) Murder of another human being,~~
159 ~~(p) Aggravated fleeing or eluding with serious bodily~~
160 ~~injury or death,~~
161 ~~(q) Resisting an officer with violence to his or her~~
162 ~~person, or~~
163 ~~(r) Felony that is an act of terrorism or is in furtherance~~
164 ~~of an act of terrorism, including a felony under s. 775.30, s.~~
165 ~~775.32, s. 775.33, s. 775.34, or s. 775.35,~~
166
167 ~~by a person other than the person engaged in the perpetration of~~
168 ~~or in the attempt to perpetrate such felony, the person~~
169 ~~perpetrating or attempting to perpetrate such felony commits~~
170 ~~murder in the second degree, which constitutes a felony of the~~
171 ~~first degree, punishable by imprisonment for a term of years not~~
172 ~~exceeding life or as provided in s. 775.082, s. 775.083, or s.~~
173 ~~775.084.~~
174 ~~(4) The unlawful killing of a human being, when perpetrated~~

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175 ~~without any design to effect death, by a person engaged in the~~
176 ~~perpetration of, or in the attempt to perpetrate, any felony~~
177 ~~other than any:~~

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

179 ~~(b) Arson,~~

180 ~~(c) Sexual battery,~~

181 ~~(d) Robbery,~~

182 ~~(e) Burglary,~~

183 ~~(f) Kidnapping,~~

184 ~~(g) Escape,~~

185 ~~(h) Aggravated child abuse,~~

186 ~~(i) Aggravated abuse of an elderly person or disabled~~
187 ~~adult,~~

188 ~~(j) Aircraft piracy,~~

189 ~~(k) Unlawful throwing, placing, or discharging of a~~
190 ~~destructive device or bomb,~~

191 ~~(l) Unlawful distribution of any substance controlled under~~
192 ~~s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or~~
193 ~~opium or any synthetic or natural salt, compound, derivative, or~~
194 ~~preparation of opium by a person 18 years of age or older, when~~
195 ~~such drug is proven to be the proximate cause of the death of~~
196 ~~the user,~~

197 ~~(m) Carjacking,~~

198 ~~(n) Home invasion robbery,~~

199 ~~(o) Aggravated stalking,~~

200 ~~(p) Murder of another human being,~~

201 ~~(q) Aggravated fleeing or eluding with serious bodily~~
202 ~~injury or death,~~

203 ~~(r) Resisting an officer with violence to his or her~~

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204 ~~person, or~~

205 ~~(s) Felony that is an act of terrorism or is in furtherance~~
206 ~~of an act of terrorism, including a felony under s. 775.30, s.~~
207 ~~775.32, s. 775.33, s. 775.34, or s. 775.35,~~

208
209 ~~is murder in the third degree and constitutes a felony of the~~
210 ~~second degree, punishable as provided in s. 775.082, s. 775.083,~~
211 ~~or s. 775.084.~~

212 ~~(4)~~(5) As used in this section, the term "terrorism" means
213 an activity that:

214 (a)1. Involves a violent act or an act dangerous to human
215 life which is a violation of the criminal laws of this state or
216 of the United States; or

217 2. Involves a violation of s. 815.06; and

218 (b) Is intended to:

219 1. Intimidate, injure, or coerce a civilian population;

220 2. Influence the policy of a government by intimidation or
221 coercion; or

222 3. Affect the conduct of government through destruction of
223 property, assassination, murder, kidnapping, or aircraft piracy.

224 Section 2. Section 782.041, Florida Statutes, is created to
225 read:

226 782.041 Retroactive application relating to s. 782.04;
227 resentencing.—A person convicted and sentenced under s. 782.04
228 as it existed on or before June 30, 2020, may file a petition
229 with the court that sentenced the petitioner to have the
230 petitioner's murder conviction vacated or to be resentenced, as
231 applicable, under the revised provisions of s. 782.04 on or
232 after July 1, 2020.

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233 Section 3. Subsection (2) of section 27.401, Florida
234 Statutes, is amended to read:

235 27.401 Cross-Circuit Conflict Representation Pilot
236 Program.—

237 (2) Notwithstanding ss. 27.40 and 27.5305:

238 (a) If the public defender in the Tenth Judicial Circuit is
239 unable to provide representation to an indigent defendant
240 charged with a crime under s. 782.04(2) or (3), ~~or~~ (4) due to a
241 conflict of interest and the criminal conflict and civil
242 regional counsel of the Second Region is also unable to provide
243 representation for the case due to a conflict of interest, the
244 public defender in the Thirteenth Judicial Circuit shall be
245 appointed. If the public defender in the Thirteenth Judicial
246 Circuit is unable to provide representation for the case due to
247 a conflict of interest, the criminal conflict and civil regional
248 counsel in the Fifth Region shall be appointed. If the criminal
249 conflict and civil regional counsel in the Fifth Region is
250 unable to provide representation due to a conflict of interest,
251 private counsel shall be appointed.

252 (b) If the public defender in the Thirteenth Judicial
253 Circuit is unable to provide representation to an indigent
254 defendant charged with a crime under s. 782.04(2) or (3), ~~or~~
255 ~~(4)~~ due to a conflict of interest and the criminal conflict and
256 civil regional counsel of the Second Region is also unable to
257 provide representation for the case due to a conflict of
258 interest, the public defender in the Tenth Judicial Circuit
259 shall be appointed. If the public defender in the Tenth Judicial
260 Circuit is unable to provide representation for the case due to
261 a conflict of interest, the criminal conflict and civil regional

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262 counsel in the Fifth Region shall be appointed. If the criminal
263 conflict and civil regional counsel in the Fifth Region is
264 unable to provide representation due to a conflict of interest,
265 private counsel shall be appointed.

266 Section 4. Subsection (9) of section 394.912, Florida
267 Statutes, is amended to read:

268 394.912 Definitions.—As used in this part, the term:

269 (9) "Sexually violent offense" means:

270 (a) Murder of a human being while engaged in sexual battery
271 in violation of s. 782.04(3)(b)3. ~~s. 782.04(1)(a)2.~~;

272 (b) Kidnapping of a child under the age of 13 and, in the
273 course of that offense, committing:

274 1. Sexual battery; or

275 2. A lewd, lascivious, or indecent assault or act upon or
276 in the presence of the child;

277 (c) Committing the offense of false imprisonment upon a
278 child under the age of 13 and, in the course of that offense,
279 committing:

280 1. Sexual battery; or

281 2. A lewd, lascivious, or indecent assault or act upon or
282 in the presence of the child;

283 (d) Sexual battery in violation of s. 794.011;

284 (e) Lewd, lascivious, or indecent assault or act upon or in
285 presence of the child in violation of s. 800.04 or s.
286 847.0135(5);

287 (f) An attempt, criminal solicitation, or conspiracy, in
288 violation of s. 777.04, of a sexually violent offense;

289 (g) Any conviction for a felony offense in effect at any
290 time before October 1, 1998, which is comparable to a sexually

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291 violent offense under paragraphs (a)-(f) or any federal
292 conviction or conviction in another state for a felony offense
293 that in this state would be a sexually violent offense;

294 (h) Any criminal act that, either at the time of sentencing
295 for the offense or subsequently during civil commitment
296 proceedings under this part, has been determined beyond a
297 reasonable doubt to have been sexually motivated; or

298 (i) A criminal offense in which the state attorney refers a
299 person to the department for civil commitment proceedings
300 pursuant to s. 394.9125.

301 Section 5. Subsections (6) and (7) of section 775.0823,
302 Florida Statutes, are amended to read:

303 775.0823 Violent offenses committed against law enforcement
304 officers, correctional officers, state attorneys, assistant
305 state attorneys, justices, or judges.—The Legislature does
306 hereby provide for an increase and certainty of penalty for any
307 person convicted of a violent offense against any law
308 enforcement or correctional officer, as defined in s. 943.10(1),
309 (2), (3), (6), (7), (8), or (9); against any state attorney
310 elected pursuant to s. 27.01 or assistant state attorney
311 appointed under s. 27.181; or against any justice or judge of a
312 court described in Art. V of the State Constitution, which
313 offense arises out of or in the scope of the officer's duty as a
314 law enforcement or correctional officer, the state attorney's or
315 assistant state attorney's duty as a prosecutor or investigator,
316 or the justice's or judge's duty as a judicial officer, as
317 follows:

318 ~~(6) For murder in the third degree as described in s.~~
319 ~~782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s.~~

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320 ~~775.084.~~

321 ~~(7) For attempted murder in the third degree as described~~
322 ~~in s. 782.04(4), a sentence pursuant to s. 775.082, s. 775.083,~~
323 ~~or s. 775.084.~~

324
325 Notwithstanding the provisions of s. 948.01, with respect to any
326 person who is found to have violated this section, adjudication
327 of guilt or imposition of sentence shall not be suspended,
328 deferred, or withheld.

329 Section 6. Section 782.065, Florida Statutes, is amended to
330 read:

331 782.065 Murder; law enforcement officer, correctional
332 officer, correctional probation officer.—Notwithstanding ss.
333 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant
334 shall be sentenced to life imprisonment without eligibility for
335 release upon findings by the trier of fact that, beyond a
336 reasonable doubt:

337 (1) The defendant committed murder in the first degree in
338 violation of s. 782.04(1) and a death sentence was not imposed;
339 murder in the second ~~or third~~ degree in violation of s.
340 782.04(2) or (3), ~~or (4)~~; attempted murder in the first or
341 second degree in violation of s. 782.04(1)(a)1. or (2); or
342 attempted felony murder in violation of s. 782.051; and

343 (2) The victim of any offense described in subsection (1)
344 was a law enforcement officer, part-time law enforcement
345 officer, auxiliary law enforcement officer, correctional
346 officer, part-time correctional officer, auxiliary correctional
347 officer, correctional probation officer, part-time correctional
348 probation officer, or auxiliary correctional probation officer,

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349 as those terms are defined in s. 943.10, engaged in the lawful
 350 performance of a legal duty.

351 Section 7. Paragraph (h) of subsection (3) of section
 352 921.0022, Florida Statutes, is amended to read:

353 921.0022 Criminal Punishment Code; offense severity ranking
 354 chart.—

355 (3) OFFENSE SEVERITY RANKING CHART

356 (h) LEVEL 8

357

Florida Statute	Felony Degree	Description
316.193 (3) (c) 3.a.	2nd	DUI manslaughter.
316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
499.0051 (6)	1st	Knowing trafficking in contraband prescription drugs.
499.0051 (7)	1st	Knowing forgery of prescription labels or prescription drug labels.

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363

560.123(8)(b)2.

2nd

Failure to report
currency or payment
instruments totaling or
exceeding \$20,000, but
less than \$100,000 by
money transmitter.

364

560.125(5)(b)

2nd

Money transmitter
business by unauthorized
person, currency or
payment instruments
totaling or exceeding
\$20,000, but less than
\$100,000.

365

655.50(10)(b)2.

2nd

Failure to report
financial transactions
totaling or exceeding
\$20,000, but less than
\$100,000 by financial
institutions.

366

777.03(2)(a)

1st

Accessory after the fact,
capital felony.

367

~~782.04(4)~~

2nd

~~Killing of human without
design when engaged in
act or attempt of any~~

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~~felony other than arson,
sexual battery, robbery,
burglary, kidnapping,
aggravated fleeing or
eluding with serious
bodily injury or death,
aircraft piracy, or
unlawfully discharging
bomb.~~

368

782.051 (2)

1st

Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).

369

782.071 (1) (b)

1st

Committing vehicular homicide and failing to render aid or give information.

370

782.072 (2)

1st

Committing vessel homicide and failing to render aid or give information.

371

787.06(3) (a)1.

1st

Human trafficking for labor and services of a child.

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372

787.06 (3) (b) 1st Human trafficking using coercion for commercial sexual activity of an adult.

373

787.06 (3) (c) 2. 1st Human trafficking using coercion for labor and services of an unauthorized alien adult.

374

787.06 (3) (e) 1. 1st Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.

375

787.06 (3) (f) 2. 1st Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the state.

376

790.161 (3) 1st Discharging a destructive device which results in bodily harm or property

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damage.

377

794.011 (5) (a)

1st

Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.

378

794.011 (5) (b)

2nd

Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.

379

794.011 (5) (c)

2nd

Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.

380

794.011 (5) (d)

1st

Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury;

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prior conviction for
specified sex offense.

381

794.08 (3)

2nd

Female genital
mutilation, removal of a
victim younger than 18
years of age from this
state.

382

800.04 (4) (b)

2nd

Lewd or lascivious
battery.

383

800.04 (4) (c)

1st

Lewd or lascivious
battery; offender 18
years of age or older;
prior conviction for
specified sex offense.

384

806.01 (1)

1st

Maliciously damage
dwelling or structure by
fire or explosive,
believing person in
structure.

385

810.02 (2) (a)

1st, PBL

Burglary with assault or
battery.

386

810.02 (2) (b)

1st, PBL

Burglary; armed with
explosives or dangerous

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weapon.

387

810.02 (2) (c)

1st

Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.

388

812.014 (2) (a) 2.

1st

Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.

389

812.13 (2) (b)

1st

Robbery with a weapon.

390

812.135 (2) (c)

1st

Home-invasion robbery, no firearm, deadly weapon, or other weapon.

391

817.505 (4) (c)

1st

Patient brokering; 20 or more patients.

392

817.535 (2) (b)

2nd

Filing false lien or other unauthorized document; second or subsequent offense.

393

817.535 (3) (a)

2nd

Filing false lien or other unauthorized

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document; property owner
is a public officer or
employee.

394

817.535 (4) (a) 1.

2nd

Filing false lien or
other unauthorized
document; defendant is
incarcerated or under
supervision.

395

817.535 (5) (a)

2nd

Filing false lien or
other unauthorized
document; owner of the
property incurs financial
loss as a result of the
false instrument.

396

817.568 (6)

2nd

Fraudulent use of
personal identification
information of an
individual under the age
of 18.

397

817.611 (2) (c)

1st

Traffic in or possess 50
or more counterfeit
credit cards or related
documents.

398

825.102 (2)

1st

Aggravated abuse of an

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399
400
401
402
403
404

825.1025 (2)

2nd

elderly person or
disabled adult.

Lewd or lascivious
battery upon an elderly
person or disabled adult.

825.103 (3) (a)

1st

Exploiting an elderly
person or disabled adult
and property is valued at
\$50,000 or more.

837.02 (2)

2nd

Perjury in official
proceedings relating to
prosecution of a capital
felony.

837.021 (2)

2nd

Making contradictory
statements in official
proceedings relating to
prosecution of a capital
felony.

860.121 (2) (c)

1st

Shooting at or throwing
any object in path of
railroad vehicle
resulting in great bodily
harm.

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405	860.16	1st	Aircraft piracy.
406	893.13 (1) (b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
407	893.13 (2) (b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
408	893.13 (6) (c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
409	893.135 (1) (a) 2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
410	893.135 (1) (b) 1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
410	893.135 (1) (c) 1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.

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412
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416
417

893.135
(1) (c) 2.c.

1st

Trafficking in hydrocodone, 100 grams or more, less than 300 grams.

893.135
(1) (c) 3.c.

1st

Trafficking in oxycodone, 25 grams or more, less than 100 grams.

893.135
(1) (c) 4.b. (II)

1st

Trafficking in fentanyl, 14 grams or more, less than 28 grams.

893.135
(1) (d) 1.b.

1st

Trafficking in phencyclidine, 200 grams or more, less than 400 grams.

893.135
(1) (e) 1.b.

1st

Trafficking in methaqualone, 5 kilograms or more, less than 25 kilograms.

893.135
(1) (f) 1.b.

1st

Trafficking in amphetamine, 28 grams or more, less than 200 grams.

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418

893.135
(1) (g) 1.b.

1st

Trafficking in
flunitrazepam, 14 grams
or more, less than 28
grams.

419

893.135
(1) (h) 1.b.

1st

Trafficking in gamma-
hydroxybutyric acid
(GHB), 5 kilograms or
more, less than 10
kilograms.

420

893.135
(1) (j) 1.b.

1st

Trafficking in 1,4-
Butanediol, 5 kilograms
or more, less than 10
kilograms.

421

893.135
(1) (k) 2.b.

1st

Trafficking in
Phenethylamines, 200
grams or more, less than
400 grams.

422

893.135
(1) (m) 2.c.

1st

Trafficking in synthetic
cannabinoids, 1,000 grams
or more, less than 30
kilograms.

893.135
(1) (n) 2.b.

1st

Trafficking in n-benzyl
phenethylamines, 100
grams or more, less than

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200 grams.

423

893.1351(3)

1st

Possession of a place used to manufacture controlled substance when minor is present or resides there.

424

895.03(1)

1st

Use or invest proceeds derived from pattern of racketeering activity.

425

895.03(2)

1st

Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.

426

895.03(3)

1st

Conduct or participate in any enterprise through pattern of racketeering activity.

427

896.101(5)(b)

2nd

Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.

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450 been determined by the authority to be eligible for
451 discretionary early release pursuant to this section. In
452 establishing control release dates, it is the intent of the
453 Legislature that the authority prioritize consideration of
454 eligible inmates closest to their tentative release date. The
455 authority shall rely upon commitment data on the offender
456 information system maintained by the department to initially
457 identify inmates who are to be reviewed for control release
458 consideration. The authority may use a method of objective risk
459 assessment in determining if an eligible inmate should be
460 released. Such assessment shall be a part of the department's
461 management information system. However, the authority shall have
462 sole responsibility for determining control release eligibility,
463 establishing a control release date, and effectuating the
464 release of a sufficient number of inmates to maintain the inmate
465 population between 99 percent and 100 percent of total capacity.
466 Inmates who are ineligible for control release are inmates who
467 are parole eligible or inmates who:

468 (a) Are serving a sentence that includes a mandatory
469 minimum provision for a capital offense or drug trafficking
470 offense and have not served the number of days equal to the
471 mandatory minimum term less any jail-time credit awarded by the
472 court;

473 (b) Are serving the mandatory minimum portion of a sentence
474 enhanced under s. 775.087(2) or (3), or s. 784.07(3);

475 (c) Are convicted, or have been previously convicted, of
476 committing or attempting to commit sexual battery, incest, or
477 any of the following lewd or indecent assaults or acts:
478 masturbating in public; exposing the sexual organs in a

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479 perverted manner; or nonconsensual handling or fondling of the
480 sexual organs of another person;

481 (d) Are convicted, or have been previously convicted, of
482 committing or attempting to commit assault, aggravated assault,
483 battery, or aggravated battery, and a sex act was attempted or
484 completed during commission of such offense;

485 (e) Are convicted, or have been previously convicted, of
486 committing or attempting to commit kidnapping, burglary, or
487 murder, and the offense was committed with the intent to commit
488 sexual battery or a sex act was attempted or completed during
489 commission of the offense;

490 (f) Are convicted, or have been previously convicted, of
491 committing or attempting to commit false imprisonment upon a
492 child under the age of 13 and, in the course of committing the
493 offense, the inmate committed aggravated child abuse, sexual
494 battery against the child, or a lewd or lascivious offense
495 committed upon or in the presence of a person less than 16 years
496 of age;

497 (g) Are sentenced, have previously been sentenced, or have
498 been sentenced at any time under s. 775.084, or have been
499 sentenced at any time in another jurisdiction as a habitual
500 offender;

501 (h) Are convicted, or have been previously convicted, of
502 committing or attempting to commit assault, aggravated assault,
503 battery, aggravated battery, kidnapping, manslaughter, or murder
504 against an officer as defined in s. 943.10(1), (2), (3), (6),
505 (7), (8), or (9); against a state attorney or assistant state
506 attorney; or against a justice or judge of a court described in
507 Art. V of the State Constitution; or against an officer, judge,

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508 or state attorney employed in a comparable position by any other
509 jurisdiction; ~~or~~

510 (i) Are convicted, or have been previously convicted, of
511 committing or attempting to commit murder in the first or~~r~~
512 second, ~~or third~~ degree under s. 782.04(1), (2), or (3), ~~or (4)~~,
513 or have ever been convicted of any degree of murder or attempted
514 murder in another jurisdiction;

515 (j) Are convicted, or have been previously convicted, of
516 DUI manslaughter under s. 316.193(3)(c)3., and are sentenced, or
517 have been sentenced at any time, as a habitual offender for such
518 offense, or have been sentenced at any time in another
519 jurisdiction as a habitual offender for such offense;

520 (k)1. Are serving a sentence for an offense committed on or
521 after January 1, 1994, for a violation of the Law Enforcement
522 Protection Act under s. 775.0823(2), (3), (4), or (5), ~~or (6)~~,
523 and the subtotal of the offender's sentence points is multiplied
524 pursuant to former s. 921.0014 or s. 921.0024;

525 2. Are serving a sentence for an offense committed on or
526 after October 1, 1995, for a violation of the Law Enforcement
527 Protection Act under s. 775.0823(2), (3), (4), (5), (6), or (7),
528 ~~(8), or (9)~~, and the subtotal of the offender's sentence points
529 is multiplied pursuant to former s. 921.0014 or s. 921.0024;

530 (l) Are serving a sentence for an offense committed on or
531 after January 1, 1994, for possession of a firearm,
532 semiautomatic firearm, or machine gun in which additional points
533 are added to the subtotal of the offender's sentence points
534 pursuant to former s. 921.0014 or s. 921.0024; or

535 (m) Are convicted, or have been previously convicted, of
536 committing or attempting to commit manslaughter, kidnapping,

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537 robbery, carjacking, home-invasion robbery, or a burglary under
538 s. 810.02(2).

539
540 In making control release eligibility determinations under this
541 subsection, the authority may rely on any document leading to or
542 generated during the course of the criminal proceedings,
543 including, but not limited to, any presentence or postsentence
544 investigation or any information contained in arrest reports
545 relating to circumstances of the offense.

546 Section 10. Paragraph (a) of subsection (5) of section
547 948.012, Florida Statutes, is amended to read:

548 948.012 Split sentence of probation or community control
549 and imprisonment.—

550 (5) (a) Effective for offenses committed on or after October
551 1, 2014, if the court imposes a term of years in accordance with
552 s. 775.082 which is less than the maximum sentence for the
553 offense, the court must impose a split sentence pursuant to
554 subsection (1) for any person who is convicted of a violation
555 of:

- 556 1. Section 782.04(3)(b)3. ~~782.04(1)(a)2.e.~~;
- 557 2. Section 787.01(3)(a)2. or 3.;
- 558 3. Section 787.02(3)(a)2. or 3.;
- 559 4. Section 794.011, excluding s. 794.011(10);
- 560 5. Section 800.04;
- 561 6. Section 825.1025; or
- 562 7. Section 847.0135(5).

563 Section 11. Paragraph (b) of subsection (1) of section
564 921.0024, Florida Statutes, is amended to read:

565 921.0024 Criminal Punishment Code; worksheet computations;

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566 scoresheets.-

567 (1)

568 (b) WORKSHEET KEY:

569

570 Legal status points are assessed when any form of legal status
571 existed at the time the offender committed an offense before the
572 court for sentencing. Four (4) sentence points are assessed for
573 an offender's legal status.

574

575 Community sanction violation points are assessed when a
576 community sanction violation is before the court for sentencing.
577 Six (6) sentence points are assessed for each community sanction
578 violation and each successive community sanction violation,
579 unless any of the following apply:

580 1. If the community sanction violation includes a new
581 felony conviction before the sentencing court, twelve (12)
582 community sanction violation points are assessed for the
583 violation, and for each successive community sanction violation
584 involving a new felony conviction.

585 2. If the community sanction violation is committed by a
586 violent felony offender of special concern as defined in s.
587 948.06:

588 a. Twelve (12) community sanction violation points are
589 assessed for the violation and for each successive violation of
590 felony probation or community control where:

591 I. The violation does not include a new felony conviction;
592 and

593 II. The community sanction violation is not based solely on
594 the probationer or offender's failure to pay costs or fines or

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595 make restitution payments.

596 b. Twenty-four (24) community sanction violation points are
597 assessed for the violation and for each successive violation of
598 felony probation or community control where the violation
599 includes a new felony conviction.

600

601 Multiple counts of community sanction violations before the
602 sentencing court shall not be a basis for multiplying the
603 assessment of community sanction violation points.

604

605 Prior serious felony points: If the offender has a primary
606 offense or any additional offense ranked in level 8, level 9, or
607 level 10, and one or more prior serious felonies, a single
608 assessment of thirty (30) points shall be added. For purposes of
609 this section, a prior serious felony is an offense in the
610 offender's prior record that is ranked in level 8, level 9, or
611 level 10 under s. 921.0022 or s. 921.0023 and for which the
612 offender is serving a sentence of confinement, supervision, or
613 other sanction or for which the offender's date of release from
614 confinement, supervision, or other sanction, whichever is later,
615 is within 3 years before the date the primary offense or any
616 additional offense was committed.

617

618 Prior capital felony points: If the offender has one or more
619 prior capital felonies in the offender's criminal record, points
620 shall be added to the subtotal sentence points of the offender
621 equal to twice the number of points the offender receives for
622 the primary offense and any additional offense. A prior capital
623 felony in the offender's criminal record is a previous capital

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624 felony offense for which the offender has entered a plea of nolo
625 contendere or guilty or has been found guilty; or a felony in
626 another jurisdiction which is a capital felony in that
627 jurisdiction, or would be a capital felony if the offense were
628 committed in this state.

629
630 Possession of a firearm, semiautomatic firearm, or machine gun:
631 If the offender is convicted of committing or attempting to
632 commit any felony other than those enumerated in s. 775.087(2)
633 while having in his or her possession: a firearm as defined in
634 s. 790.001(6), an additional eighteen (18) sentence points are
635 assessed; or if the offender is convicted of committing or
636 attempting to commit any felony other than those enumerated in
637 s. 775.087(3) while having in his or her possession a
638 semiautomatic firearm as defined in s. 775.087(3) or a machine
639 gun as defined in s. 790.001(9), an additional twenty-five (25)
640 sentence points are assessed.

641
642 Sentencing multipliers:

643
644 Drug trafficking: If the primary offense is drug trafficking
645 under s. 893.135, the subtotal sentence points are multiplied,
646 at the discretion of the court, for a level 7 or level 8
647 offense, by 1.5. The state attorney may move the sentencing
648 court to reduce or suspend the sentence of a person convicted of
649 a level 7 or level 8 offense, if the offender provides
650 substantial assistance as described in s. 893.135(4).

651
652 Law enforcement protection: If the primary offense is a

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653 violation of the Law Enforcement Protection Act under s.
654 775.0823(2), (3), or (4), the subtotal sentence points are
655 multiplied by 2.5. If the primary offense is a violation of s.
656 775.0823(5), (6), or (7), ~~(8), or (9)~~, the subtotal sentence
657 points are multiplied by 2.0. If the primary offense is a
658 violation of s. 784.07(3) or s. 775.0875(1), or of the Law
659 Enforcement Protection Act under s. 775.0823(8) or (9) ~~s.~~
660 ~~775.0823(10) or (11)~~, the subtotal sentence points are
661 multiplied by 1.5.

662

663 Grand theft of a motor vehicle: If the primary offense is grand
664 theft of the third degree involving a motor vehicle and in the
665 offender's prior record, there are three or more grand thefts of
666 the third degree involving a motor vehicle, the subtotal
667 sentence points are multiplied by 1.5.

668

669 Offense related to a criminal gang: If the offender is convicted
670 of the primary offense and committed that offense for the
671 purpose of benefiting, promoting, or furthering the interests of
672 a criminal gang as defined in s. 874.03, the subtotal sentence
673 points are multiplied by 1.5. If applying the multiplier results
674 in the lowest permissible sentence exceeding the statutory
675 maximum sentence for the primary offense under chapter 775, the
676 court may not apply the multiplier and must sentence the
677 defendant to the statutory maximum sentence.

678

679 Domestic violence in the presence of a child: If the offender is
680 convicted of the primary offense and the primary offense is a
681 crime of domestic violence, as defined in s. 741.28, which was

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682 committed in the presence of a child under 16 years of age who
683 is a family or household member as defined in s. 741.28(3) with
684 the victim or perpetrator, the subtotal sentence points are
685 multiplied by 1.5.

686

687 Adult-on-minor sex offense: If the offender was 18 years of age
688 or older and the victim was younger than 18 years of age at the
689 time the offender committed the primary offense, and if the
690 primary offense was an offense committed on or after October 1,
691 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
692 violation involved a victim who was a minor and, in the course
693 of committing that violation, the defendant committed a sexual
694 battery under chapter 794 or a lewd act under s. 800.04 or s.
695 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
696 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
697 800.04; or s. 847.0135(5), the subtotal sentence points are
698 multiplied by 2.0. If applying the multiplier results in the
699 lowest permissible sentence exceeding the statutory maximum
700 sentence for the primary offense under chapter 775, the court
701 may not apply the multiplier and must sentence the defendant to
702 the statutory maximum sentence.

703 Section 12. This act shall take effect July 1, 2020.