

By Senator Bracy

11-00222-20

2020564\_\_

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,

11-00222-20

2020564\_\_

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,~~

11-00222-20

2020564\_\_

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

11-00222-20

2020564\_\_

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).

11-00222-20

2020564\_\_

- 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,~~

11-00222-20

2020564\_\_

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~~

11-00222-20

2020564\_\_

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~~

11-00222-20

2020564\_\_

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.



11-00222-20

2020564\_\_

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

11-00222-20

2020564\_\_

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

11-00222-20

2020564\_\_

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.~~

11-00222-20

2020564\_\_

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,

11-00222-20 2020564\_\_

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.

362

11-00222-20

2020564\_\_

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~~

11-00222-20

2020564\_\_

~~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.

11-00222-20

2020564\_\_

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



11-00222-20

2020564\_\_

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;

11-00222-20

2020564\_\_

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

11-00222-20

2020564\_\_

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

11-00222-20

2020564\_\_

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

11-00222-20

2020564\_\_

elderly person or  
disabled adult.

399

825.1025 (2)

2nd

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

400

825.103 (3) (a)

1st

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

401

837.02 (2)

2nd

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

402

837.021 (2)

2nd

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

403

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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11-00222-20 2020564\_\_

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

11-00222-20

2020564\_\_

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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.

11-00222-20

2020564\_\_

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



11-00222-20

2020564\_\_

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.

11-00222-20

2020564\_\_

428

896.104 (4) (a) 2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.
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429

430 Section 8. Paragraph (e) of subsection (4) of section  
431 944.275, Florida Statutes, is amended to read:

432 944.275 Gain-time.—

433 (4)

434 (e) Notwithstanding subparagraph (b)3., for sentences  
435 imposed for offenses committed on or after October 1, 2014, the  
436 department may not grant incentive gain-time if the offense is a  
437 violation of s. 782.04 (3) (b) 3. ~~s. 782.04(1)(a)2.e.~~; s.  
438 787.01(3) (a)2. or 3.; s. 787.02(3) (a)2. or 3.; s. 794.011,  
439 excluding s. 794.011(10); s. 800.04; s. 825.1025; or s.  
440 847.0135(5).

441 Section 9. Subsection (3) of section 947.146, Florida  
442 Statutes, is amended to read:

443 947.146 Control Release Authority.—

444 (3) Within 120 days prior to the date the state  
445 correctional system is projected pursuant to s. 216.136 to  
446 exceed 99 percent of total capacity, the authority shall  
447 determine eligibility for and establish a control release date  
448 for an appropriate number of parole ineligible inmates committed  
449 to the department and incarcerated within the state who have

11-00222-20

2020564\_\_

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

11-00222-20

2020564\_\_

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,

11-00222-20

2020564\_\_

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,

11-00222-20

2020564\_\_

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;

11-00222-20

2020564\_\_

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

11-00222-20

2020564\_\_

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



11-00222-20

2020564\_\_

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

11-00222-20

2020564\_\_

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

11-00222-20

2020564\_\_

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.