

By Senator Bracy

11-00082-21

2021478__

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

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

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

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

11-00082-21

2021478__

30 commensurate with the culpability of the individual, NOW,
31 THEREFORE,

32

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

34

35 Section 1. Section 782.04, Florida Statutes, is amended to
36 read:

37 782.04 Murder.—

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

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

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

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

44 ~~b. Arson,~~

45 ~~c. Sexual battery,~~

46 ~~d. Robbery,~~

47 ~~e. Burglary,~~

48 ~~f. Kidnapping,~~

49 ~~g. Escape,~~

50 ~~h. Aggravated child abuse,~~

51 ~~i. Aggravated abuse of an elderly person or disabled adult,~~

52 ~~j. Aircraft piracy,~~

53 ~~k. Unlawful throwing, placing, or discharging of a~~
54 ~~destructive device or bomb,~~

55 ~~l. Carjacking,~~

56 ~~m. Home-invasion robbery,~~

57 ~~n. Aggravated stalking,~~

58 ~~o. Murder of another human being,~~

11-00082-21

2021478__

59 ~~p. Resisting an officer with violence to his or her person,~~
60 ~~q. Aggravated fleeing or eluding with serious bodily injury~~
61 ~~or death,~~

62 ~~r. Felony that is an act of terrorism or is in furtherance~~
63 ~~of an act of terrorism, including a felony under s. 775.30, s.~~
64 ~~775.32, s. 775.33, s. 775.34, or s. 775.35, or~~

65 ~~s. Human trafficking; or~~

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

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

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

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

75 d. Methadone;

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

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

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

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

80 i. A controlled substance analog, as described in s.
81 893.0356, of any substance specified in sub-subparagraphs a.-h.,

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

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

11-00082-21

2021478__

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

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

103 (3) (a) The unlawful killing of a human being, when
104 committed by a person or a participant engaged in the
105 perpetration of, or in the attempt to perpetrate, any of the
106 violations listed in paragraph (b), is murder in the second
107 degree, a felony of the first degree punishable by imprisonment
108 for a term of years not exceeding life or as provided in s.
109 775.082, s. 775.083, or s. 775.084, only if one of the following
110 is proven:

- 111 1. The person was the actual killer.
- 112 2. The person was not the actual killer, but, with the
113 intent to kill, aided, abetted, counseled, commanded, induced,
114 solicited, requested, or assisted the actual killer in the
115 commission of murder.
- 116 3. The person was a major participant in the underlying

11-00082-21

2021478__

117 felony and acted with reckless indifference to human life.

118 (b) The violations referenced in paragraph (a) include:

119 1. A trafficking offense prohibited by s. 893.135(1).

120 2. Arson.

121 3. Sexual battery.

122 4. Robbery.

123 5. Burglary.

124 6. Kidnapping.

125 7. Escape.

126 8. Aggravated child abuse.

127 9. Aggravated abuse of an elderly person or a disabled
128 adult.

129 10. Aircraft piracy.

130 11. Unlawful throwing, placing, or discharging of a
131 destructive device or bomb.

132 12. Carjacking.

133 13. Home-invasion robbery.

134 14. Aggravated stalking.

135 15. Murder of another human being.

136 16. Resisting an officer with violence to his or her
137 person.

138 17. Aggravated fleeing or eluding with serious bodily
139 injury or death.

140 18. A felony that is an act of terrorism or is in
141 furtherance of an act of terrorism, including a felony under s.
142 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35.

143 19. Human trafficking.

144 ~~(3) When a human being is killed during the perpetration~~
145 ~~of, or during the attempt to perpetrate, any:~~

11-00082-21

2021478__

146 ~~(a) Trafficking offense prohibited by s. 893.135(1),~~
 147 ~~(b) Arson,~~
 148 ~~(c) Sexual battery,~~
 149 ~~(d) Robbery,~~
 150 ~~(e) Burglary,~~
 151 ~~(f) Kidnapping,~~
 152 ~~(g) Escape,~~
 153 ~~(h) Aggravated child abuse,~~
 154 ~~(i) Aggravated abuse of an elderly person or disabled~~
 155 ~~adult,~~
 156 ~~(j) Aircraft piracy,~~
 157 ~~(k) Unlawful throwing, placing, or discharging of a~~
 158 ~~destructive device or bomb,~~
 159 ~~(l) Carjacking,~~
 160 ~~(m) Home invasion robbery,~~
 161 ~~(n) Aggravated stalking,~~
 162 ~~(o) Murder of another human being,~~
 163 ~~(p) Aggravated fleeing or eluding with serious bodily~~
 164 ~~injury or death,~~
 165 ~~(q) Resisting an officer with violence to his or her~~
 166 ~~person, or~~
 167 ~~(r) Felony that is an act of terrorism or is in furtherance~~
 168 ~~of an act of terrorism, including a felony under s. 775.30, s.~~
 169 ~~775.32, s. 775.33, s. 775.34, or s. 775.35,~~
 170
 171 ~~by a person other than the person engaged in the perpetration of~~
 172 ~~or in the attempt to perpetrate such felony, the person~~
 173 ~~perpetrating or attempting to perpetrate such felony commits~~
 174 ~~murder in the second degree, which constitutes a felony of the~~

11-00082-21

2021478__

175 ~~first degree, punishable by imprisonment for a term of years not~~
176 ~~exceeding life or as provided in s. 775.082, s. 775.083, or s.~~
177 ~~775.084.~~

178 ~~(4) The unlawful killing of a human being, when perpetrated~~
179 ~~without any design to effect death, by a person engaged in the~~
180 ~~perpetration of, or in the attempt to perpetrate, any felony~~
181 ~~other than any:~~

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

183 ~~(b) Arson,~~

184 ~~(c) Sexual battery,~~

185 ~~(d) Robbery,~~

186 ~~(e) Burglary,~~

187 ~~(f) Kidnapping,~~

188 ~~(g) Escape,~~

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

190 ~~(i) Aggravated abuse of an elderly person or disabled~~
191 ~~adult,~~

192 ~~(j) Aircraft piracy,~~

193 ~~(k) Unlawful throwing, placing, or discharging of a~~
194 ~~destructive device or bomb,~~

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

201 ~~(m) Carjacking,~~

202 ~~(n) Home-invasion robbery,~~

203 ~~(o) Aggravated stalking,~~

11-00082-21

2021478__

204 ~~(p) Murder of another human being,~~
 205 ~~(q) Aggravated fleeing or eluding with serious bodily~~
 206 ~~injury or death,~~
 207 ~~(r) Resisting an officer with violence to his or her~~
 208 ~~person, or~~
 209 ~~(s) Felony that is an act of terrorism or is in furtherance~~
 210 ~~of an act of terrorism, including a felony under s. 775.30, s.~~
 211 ~~775.32, s. 775.33, s. 775.34, or s. 775.35,~~
 212
 213 ~~is murder in the third degree and constitutes a felony of the~~
 214 ~~second degree, punishable as provided in s. 775.082, s. 775.083,~~
 215 ~~or s. 775.084.~~
 216 (4)~~(5)~~ As used in this section, the term "terrorism" means
 217 an activity that:
 218 (a)1. Involves a violent act or an act dangerous to human
 219 life which is a violation of the criminal laws of this state or
 220 of the United States; or
 221 2. Involves a violation of s. 815.06; and
 222 (b) Is intended to:
 223 1. Intimidate, injure, or coerce a civilian population;
 224 2. Influence the policy of a government by intimidation or
 225 coercion; or
 226 3. Affect the conduct of government through destruction of
 227 property, assassination, murder, kidnapping, or aircraft piracy.
 228 Section 2. Section 782.041, Florida Statutes, is created to
 229 read:
 230 782.041 Retroactive application relating to s. 782.04;
 231 resentencing.—A person convicted and sentenced under s. 782.04
 232 as it existed on or before June 30, 2021, may file a petition

11-00082-21

2021478__

233 with the court that sentenced the petitioner to have the
234 petitioner's murder conviction vacated or to be resentenced, as
235 applicable, under the revised provisions of s. 782.04 on or
236 after July 1, 2021.

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

239 27.401 Cross-Circuit Conflict Representation Pilot
240 Program.—

241 (2) Notwithstanding ss. 27.40 and 27.5305:

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

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

11-00082-21

2021478__

262 interest, the public defender in the Tenth Judicial Circuit
263 shall be appointed. If the public defender in the Tenth Judicial
264 Circuit is unable to provide representation for the case due to
265 a conflict of interest, the criminal conflict and civil regional
266 counsel in the Fifth Region shall be appointed. If the criminal
267 conflict and civil regional counsel in the Fifth Region is
268 unable to provide representation due to a conflict of interest,
269 private counsel shall be appointed.

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

272 394.912 Definitions.—As used in this part, the term:

273 (9) "Sexually violent offense" means:

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

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

278 1. Sexual battery; or

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

281 (c) Committing the offense of false imprisonment upon a
282 child under the age of 13 and, in the course of that offense,
283 committing:

284 1. Sexual battery; or

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

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

288 (e) Lewd, lascivious, or indecent assault or act upon or in
289 presence of the child in violation of s. 800.04 or s.

290 847.0135(5);

11-00082-21

2021478__

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

293 (g) Any conviction for a felony offense in effect at any
294 time before October 1, 1998, which is comparable to a sexually
295 violent offense under paragraphs (a)-(f) or any federal
296 conviction or conviction in another state for a felony offense
297 that in this state would be a sexually violent offense;

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

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

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

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

11-00082-21

2021478__

320 or the justice's or judge's duty as a judicial officer, as
321 follows:

322 ~~(6) For murder in the third degree as described in s.~~
323 ~~782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s.~~
324 ~~775.084.~~

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

328

329 Notwithstanding the provisions of s. 948.01, with respect to any
330 person who is found to have violated this section, adjudication
331 of guilt or imposition of sentence shall not be suspended,
332 deferred, or withheld.

333 Section 6. Section 782.065, Florida Statutes, is amended to
334 read:

335 782.065 Murder; law enforcement officer, correctional
336 officer, correctional probation officer.—Notwithstanding ss.
337 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant
338 shall be sentenced to life imprisonment without eligibility for
339 release upon findings by the trier of fact that, beyond a
340 reasonable doubt:

341 (1) The defendant committed murder in the first degree in
342 violation of s. 782.04(1) and a death sentence was not imposed;
343 murder in the second ~~or third~~ degree in violation of s.
344 782.04(2) or, (3), ~~or (4)~~; attempted murder in the first or
345 second degree in violation of s. 782.04(1)(a)1. or (2); or
346 attempted felony murder in violation of s. 782.051; and

347 (2) The victim of any offense described in subsection (1)
348 was a law enforcement officer, part-time law enforcement

11-00082-21 2021478__

349 officer, auxiliary law enforcement officer, correctional
 350 officer, part-time correctional officer, auxiliary correctional
 351 officer, correctional probation officer, part-time correctional
 352 probation officer, or auxiliary correctional probation officer,
 353 as those terms are defined in s. 943.10, engaged in the lawful
 354 performance of a legal duty.

355 Section 7. Paragraph (h) of subsection (3) of section
 356 921.0022, Florida Statutes, is amended to read:

357 921.0022 Criminal Punishment Code; offense severity ranking
 358 chart.—

359 (3) OFFENSE SEVERITY RANKING CHART

360 (h) LEVEL 8

361

Florida Statute	Felony Degree	Description
362 316.193 (3) (c) 3.a.	2nd	DUI manslaughter.
363 316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
364 327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
365 499.0051 (6)	1st	Knowing trafficking in contraband prescription drugs.

11-00082-21

2021478__

366

499.0051 (7)

1st

Knowing forgery of
prescription labels or
prescription drug labels.

367

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.

368

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.

369

655.50 (10) (b) 2.

2nd

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

370

777.03 (2) (a)

1st

Accessory after the fact,
capital felony.

11-00082-21

2021478__

371

~~782.04(4)~~

2nd

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

372

782.051(2)

1st

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

373

782.071(1)(b)

1st

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

374

782.072(2)

1st

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

11-00082-21

2021478__

375

787.06(3)(a)1. 1st Human trafficking for labor and services of a child.

376

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

377

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

378

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.

379

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.

11-00082-21

2021478__

380

790.161 (3)

1st

Discharging a destructive device which results in bodily harm or property damage.

381

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.

382

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.

383

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.

384

794.011 (5) (d)

1st

Sexual battery; victim 12

11-00082-21

2021478__

years of age or older;
offender does not use
physical force likely to
cause serious injury;
prior conviction for
specified sex offense.

385

794.08 (3)

2nd

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

386

800.04 (4) (b)

2nd

Lewd or lascivious
battery.

387

800.04 (4) (c)

1st

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

388

806.01 (1)

1st

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

389

810.02 (2) (a)

1st, PBL

Burglary with assault or

11-00082-21

2021478__

battery.

390

810.02 (2) (b)

1st, PBL

Burglary; armed with explosives or dangerous weapon.

391

810.02 (2) (c)

1st

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

392

812.014 (2) (a) 2.

1st

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

393

812.13 (2) (b)

1st

Robbery with a weapon.

394

812.135 (2) (c)

1st

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

395

817.505 (4) (c)

1st

Patient brokering; 20 or more patients.

396

817.535 (2) (b)

2nd

Filing false lien or other unauthorized document; second or

11-00082-21

2021478__

subsequent offense.

397

817.535 (3) (a)

2nd

Filing false lien or other unauthorized document; property owner is a public officer or employee.

398

817.535 (4) (a) 1.

2nd

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

399

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.

400

817.568 (6)

2nd

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

401

817.611 (2) (c)

1st

Traffic in or possess 50 or more counterfeit

11-00082-21

2021478__

credit cards or related documents.

402

825.102 (2)

1st

Aggravated abuse of an elderly person or disabled adult.

403

825.1025 (2)

2nd

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

404

825.103 (3) (a)

1st

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

405

837.02 (2)

2nd

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

406

837.021 (2)

2nd

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

407

860.121 (2) (c)

1st

Shooting at or throwing any object in path of

11-00082-21

2021478__

railroad vehicle
 resulting in great bodily
 harm.

408

860.16 1st

Aircraft piracy.

409

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).

410

893.13(2)(b) 1st

Purchase in excess of 10
 grams of any substance
 specified in s.
 893.03(1)(a) or (b).

411

893.13(6)(c) 1st

Possess in excess of 10
 grams of any substance
 specified in s.
 893.03(1)(a) or (b).

412

893.135(1)(a)2. 1st

Trafficking in cannabis,
 more than 2,000 lbs.,
 less than 10,000 lbs.

413

893.135
 (1)(b)1.b. 1st

Trafficking in cocaine,
 more than 200 grams, less
 than 400 grams.

414

11-00082-21 2021478__

415	893.135 (1) (c) 1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
416	893.135 (1) (c) 2.c.	1st	Trafficking in hydrocodone, 100 grams or more, less than 300 grams.
417	893.135 (1) (c) 3.c.	1st	Trafficking in oxycodone, 25 grams or more, less than 100 grams.
418	893.135 (1) (c) 4.b. (II)	1st	Trafficking in fentanyl, 14 grams or more, less than 28 grams.
419	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, 200 grams or more, less than 400 grams.
420	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, 5 kilograms or more, less than 25 kilograms.
420	893.135	1st	Trafficking in

11-00082-21 2021478__

(1) (f) 1.b. amphetamine, 28 grams or more, less than 200 grams.

421

893.135 1st Trafficking in
 (1) (g) 1.b. flunitrazepam, 14 grams or more, less than 28 grams.

422

893.135 1st Trafficking in gamma-
 (1) (h) 1.b. hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.

423

893.135 1st Trafficking in 1,4-
 (1) (j) 1.b. Butanediol, 5 kilograms or more, less than 10 kilograms.

424

893.135 1st Trafficking in
 (1) (k) 2.b. Phenethylamines, 200 grams or more, less than 400 grams.

425

893.135 1st Trafficking in synthetic
 (1) (m) 2.c. cannabinoids, 1,000 grams or more, less than 30 kilograms.

11-00082-21

2021478__

426

893.135
(1) (n) 2.b.

1st

Trafficking in n-benzyl phenethylamines, 100 grams or more, less than 200 grams.

427

893.1351 (3)

1st

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

428

895.03 (1)

1st

Use or invest proceeds derived from pattern of racketeering activity.

429

895.03 (2)

1st

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

430

895.03 (3)

1st

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

431

896.101 (5) (b)

2nd

Money laundering,

11-00082-21

2021478__

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

432

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.

433

434 Section 8. Paragraph (e) of subsection (4) of section
435 944.275, Florida Statutes, is amended to read:

436 944.275 Gain-time.—

437 (4)

438 (e) Notwithstanding subparagraph (b)3., for sentences
439 imposed for offenses committed on or after October 1, 2014, the
440 department may not grant incentive gain-time if the offense is a
441 violation of s. 782.04(3)(b)3. ~~s. 782.04(1)(a)2.e.~~; s.
442 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011,
443 excluding s. 794.011(10); s. 800.04; s. 825.1025; or s.
444 847.0135(5).

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

447 947.146 Control Release Authority.—

448 (3) Within 120 days prior to the date the state
449 correctional system is projected pursuant to s. 216.136 to

11-00082-21

2021478__

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

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

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

11-00082-21

2021478__

479 (c) Are convicted, or have been previously convicted, of
480 committing or attempting to commit sexual battery, incest, or
481 any of the following lewd or indecent assaults or acts:
482 masturbating in public; exposing the sexual organs in a
483 perverted manner; or nonconsensual handling or fondling of the
484 sexual organs of another person;

485 (d) Are convicted, or have been previously convicted, of
486 committing or attempting to commit assault, aggravated assault,
487 battery, or aggravated battery, and a sex act was attempted or
488 completed during commission of such offense;

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

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

501 (g) Are sentenced, have previously been sentenced, or have
502 been sentenced at any time under s. 775.084, or have been
503 sentenced at any time in another jurisdiction as a habitual
504 offender;

505 (h) Are convicted, or have been previously convicted, of
506 committing or attempting to commit assault, aggravated assault,
507 battery, aggravated battery, kidnapping, manslaughter, or murder

11-00082-21

2021478__

508 against an officer as defined in s. 943.10(1), (2), (3), (6),
509 (7), (8), or (9); against a state attorney or assistant state
510 attorney; or against a justice or judge of a court described in
511 Art. V of the State Constitution; or against an officer, judge,
512 or state attorney employed in a comparable position by any other
513 jurisdiction; ~~or~~

514 (i) Are convicted, or have been previously convicted, of
515 committing or attempting to commit murder in the first or~~7~~
516 second, ~~or third~~ degree under s. 782.04(1), (2), or (3), ~~or (4)~~,
517 or have ever been convicted of any degree of murder or attempted
518 murder in another jurisdiction;

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

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

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

534 (l) Are serving a sentence for an offense committed on or
535 after January 1, 1994, for possession of a firearm,
536 semiautomatic firearm, or machine gun in which additional points

11-00082-21

2021478__

537 are added to the subtotal of the offender's sentence points
538 pursuant to former s. 921.0014 or s. 921.0024; or

539 (m) Are convicted, or have been previously convicted, of
540 committing or attempting to commit manslaughter, kidnapping,
541 robbery, carjacking, home-invasion robbery, or a burglary under
542 s. 810.02(2).

543

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

550 Section 10. Paragraph (a) of subsection (5) of section
551 948.012, Florida Statutes, is amended to read:

552 948.012 Split sentence of probation or community control
553 and imprisonment.—

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

560 1. Section 782.04(3)(b)3. ~~782.04(1)(a)2.e.;~~

561 2. Section 787.01(3)(a)2. or 3.;

562 3. Section 787.02(3)(a)2. or 3.;

563 4. Section 794.011, excluding s. 794.011(10);

564 5. Section 800.04;

565 6. Section 825.1025; or

11-00082-21

2021478__

566 7. Section 847.0135(5).

567 Section 11. Paragraph (b) of subsection (1) of section
568 921.0024, Florida Statutes, is amended to read:

569 921.0024 Criminal Punishment Code; worksheet computations;
570 scoresheets.—

571 (1)

572 (b) WORKSHEET KEY:

573

574 Legal status points are assessed when any form of legal status
575 existed at the time the offender committed an offense before the
576 court for sentencing. Four (4) sentence points are assessed for
577 an offender's legal status.

578

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

584 1. If the community sanction violation includes a new
585 felony conviction before the sentencing court, twelve (12)
586 community sanction violation points are assessed for the
587 violation, and for each successive community sanction violation
588 involving a new felony conviction.

589 2. If the community sanction violation is committed by a
590 violent felony offender of special concern as defined in s.
591 948.06:

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

11-00082-21

2021478__

595 I. The violation does not include a new felony conviction;
596 and

597 II. The community sanction violation is not based solely on
598 the probationer or offender's failure to pay costs or fines or
599 make restitution payments.

600 b. Twenty-four (24) community sanction violation points are
601 assessed for the violation and for each successive violation of
602 felony probation or community control where the violation
603 includes a new felony conviction.

604
605 Multiple counts of community sanction violations before the
606 sentencing court shall not be a basis for multiplying the
607 assessment of community sanction violation points.

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

621
622 Prior capital felony points: If the offender has one or more
623 prior capital felonies in the offender's criminal record, points

11-00082-21

2021478__

624 shall be added to the subtotal sentence points of the offender
625 equal to twice the number of points the offender receives for
626 the primary offense and any additional offense. A prior capital
627 felony in the offender's criminal record is a previous capital
628 felony offense for which the offender has entered a plea of nolo
629 contendere or guilty or has been found guilty; or a felony in
630 another jurisdiction which is a capital felony in that
631 jurisdiction, or would be a capital felony if the offense were
632 committed in this state.

633

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

645

646 Sentencing multipliers:

647

648 Drug trafficking: If the primary offense is drug trafficking
649 under s. 893.135, the subtotal sentence points are multiplied,
650 at the discretion of the court, for a level 7 or level 8
651 offense, by 1.5. The state attorney may move the sentencing
652 court to reduce or suspend the sentence of a person convicted of

11-00082-21

2021478__

653 a level 7 or level 8 offense, if the offender provides
654 substantial assistance as described in s. 893.135(4).

655

656 Law enforcement protection: If the primary offense is a
657 violation of the Law Enforcement Protection Act under s.
658 775.0823(2), (3), or (4), the subtotal sentence points are
659 multiplied by 2.5. If the primary offense is a violation of s.
660 775.0823(5), (6), or (7), ~~(8), or (9)~~, the subtotal sentence
661 points are multiplied by 2.0. If the primary offense is a
662 violation of s. 784.07(3) or s. 775.0875(1), or of the Law
663 Enforcement Protection Act under s. 775.0823(8) or (9) ~~s.~~
664 ~~775.0823(10) or (11)~~, the subtotal sentence points are
665 multiplied by 1.5.

666

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

672

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

11-00082-21

2021478__

682

683 Domestic violence in the presence of a child: If the offender is
684 convicted of the primary offense and the primary offense is a
685 crime of domestic violence, as defined in s. 741.28, which was
686 committed in the presence of a child under 16 years of age who
687 is a family or household member as defined in s. 741.28(3) with
688 the victim or perpetrator, the subtotal sentence points are
689 multiplied by 1.5.

690

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

707

Section 12. This act shall take effect July 1, 2021.