

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 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

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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 ~~e. 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,~~

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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

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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

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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:~~

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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~~

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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,~~

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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, 2022, may file a petition

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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, 2022.

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

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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);

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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,

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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

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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
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.

362

363

364

365

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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.

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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.

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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.

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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

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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

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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

817.418 (2) (b)

2nd

Offering for sale or advertising personal protective equipment with intent to defraud; second or subsequent offense.

396

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397 817.504 (1) (b) 2nd Offering or advertising a vaccine with intent to defraud; second or subsequent offense.

398 817.505 (4) (c) 1st Patient brokering; 20 or more patients.

399 817.535 (2) (b) 2nd Filing false lien or other unauthorized document; second or subsequent offense.

400 817.535 (3) (a) 2nd Filing false lien or other unauthorized document; property owner is a public officer or employee.

401 817.535 (4) (a) 1. 2nd Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.

817.535 (5) (a) 2nd Filing false lien or other unauthorized document; owner of the property incurs financial

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loss as a result of the
false instrument.

402

817.568 (6)

2nd

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

403

817.611 (2) (c)

1st

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

404

825.102 (2)

1st

Aggravated abuse of an
elderly person or
disabled adult.

405

825.1025 (2)

2nd

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

406

825.103 (3) (a)

1st

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

407

837.02 (2)

2nd

Perjury in official
proceedings relating to

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prosecution of a capital
felony.

408

837.021(2)

2nd

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

409

860.121(2)(c)

1st

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

410

860.16

1st

Aircraft piracy.

411

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).

412

893.13(2)(b)

1st

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

413

893.13(6)(c)

1st

Possess in excess of 10
grams of any substance

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specified in s.
893.03(1)(a) or (b).

414

893.135(1)(a)2. 1st Trafficking in cannabis,
more than 2,000 lbs.,
less than 10,000 lbs.

415

893.135 1st Trafficking in cocaine,
(1)(b)1.b. more than 200 grams, less
than 400 grams.

416

893.135 1st Trafficking in illegal
(1)(c)1.b. drugs, more than 14
grams, less than 28
grams.

417

893.135 1st Trafficking in
(1)(c)2.c. hydrocodone, 100 grams or
more, less than 300
grams.

418

893.135 1st Trafficking in oxycodone,
(1)(c)3.c. 25 grams or more, less
than 100 grams.

419

893.135 1st Trafficking in fentanyl,
(1)(c)4.b.(II) 14 grams or more, less
than 28 grams.

420

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421	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, 200 grams or more, less than 400 grams.
422	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, 5 kilograms or more, less than 25 kilograms.
423	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, 28 grams or more, less than 200 grams.
424	893.135 (1) (g) 1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
425	893.135 (1) (h) 1.b.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
425	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4- Butanediol, 5 kilograms or more, less than 10

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kilograms.

426

893.135
(1) (k) 2.b.

1st

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

427

893.135
(1) (m) 2.c.

1st

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

428

893.135
(1) (n) 2.b.

1st

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

429

893.1351 (3)

1st

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

430

895.03 (1)

1st

Use or invest proceeds
derived from pattern of
racketeering activity.

431

895.03 (2)

1st

Acquire or maintain
through racketeering

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activity any interest in
or control of any
enterprise or real
property.

432

895.03 (3)

1st

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

433

896.101 (5) (b)

2nd

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

434

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.

435

Section 8. Paragraph (e) of subsection (4) of section

944.275, Florida Statutes, is amended to read:

944.275 Gain-time.—

(4)

(e) Notwithstanding subparagraph (b)3., for sentences

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441 imposed for offenses committed on or after October 1, 2014, the
442 department may not grant incentive gain-time if the offense is a
443 violation of s. 782.04(3)(b)3. ~~s. 782.04(1)(a)2.e.~~; s.
444 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011,
445 excluding s. 794.011(10); s. 800.04; s. 825.1025; or s.
446 847.0135(5).

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

449 947.146 Control Release Authority.—

450 (3) Within 120 days prior to the date the state
451 correctional system is projected pursuant to s. 216.136 to
452 exceed 99 percent of total capacity, the authority shall
453 determine eligibility for and establish a control release date
454 for an appropriate number of parole ineligible inmates committed
455 to the department and incarcerated within the state who have
456 been determined by the authority to be eligible for
457 discretionary early release pursuant to this section. In
458 establishing control release dates, it is the intent of the
459 Legislature that the authority prioritize consideration of
460 eligible inmates closest to their tentative release date. The
461 authority shall rely upon commitment data on the offender
462 information system maintained by the department to initially
463 identify inmates who are to be reviewed for control release
464 consideration. The authority may use a method of objective risk
465 assessment in determining if an eligible inmate should be
466 released. Such assessment shall be a part of the department's
467 management information system. However, the authority shall have
468 sole responsibility for determining control release eligibility,
469 establishing a control release date, and effectuating the

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470 release of a sufficient number of inmates to maintain the inmate
471 population between 99 percent and 100 percent of total capacity.
472 Inmates who are ineligible for control release are inmates who
473 are parole eligible or inmates who:

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

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

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

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

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

496 (f) Are convicted, or have been previously convicted, of
497 committing or attempting to commit false imprisonment upon a
498 child under the age of 13 and, in the course of committing the

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499 offense, the inmate committed aggravated child abuse, sexual
500 battery against the child, or a lewd or lascivious offense
501 committed upon or in the presence of a person less than 16 years
502 of age;

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

507 (h) Are convicted, or have been previously convicted, of
508 committing or attempting to commit assault, aggravated assault,
509 battery, aggravated battery, kidnapping, manslaughter, or murder
510 against an officer as defined in s. 943.10(1), (2), (3), (6),
511 (7), (8), or (9); against a state attorney or assistant state
512 attorney; or against a justice or judge of a court described in
513 Art. V of the State Constitution; or against an officer, judge,
514 or state attorney employed in a comparable position by any other
515 jurisdiction; ~~or~~

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

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

526 (k)1. Are serving a sentence for an offense committed on or
527 after January 1, 1994, for a violation of the Law Enforcement

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528 Protection Act under s. 775.0823(2), (3), (4), or (5), ~~or (6),~~
529 and the subtotal of the offender's sentence points is multiplied
530 pursuant to former s. 921.0014 or s. 921.0024;

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

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

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

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

552 Section 10. Paragraph (a) of subsection (5) of section
553 948.012, Florida Statutes, is amended to read:

554 948.012 Split sentence of probation or community control
555 and imprisonment.—

556 (5) (a) Effective for offenses committed on or after October

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557 1, 2014, if the court imposes a term of years in accordance with
558 s. 775.082 which is less than the maximum sentence for the
559 offense, the court must impose a split sentence pursuant to
560 subsection (1) for any person who is convicted of a violation
561 of:

- 562 1. Section 782.04(3)(b)3. ~~782.04(1)(a)2.c.~~;
- 563 2. Section 787.01(3)(a)2. or 3.;
- 564 3. Section 787.02(3)(a)2. or 3.;
- 565 4. Section 794.011, excluding s. 794.011(10);
- 566 5. Section 800.04;
- 567 6. Section 825.1025; or
- 568 7. Section 847.0135(5).

569 Section 11. Paragraph (b) of subsection (1) of section
570 921.0024, Florida Statutes, is amended to read:

571 921.0024 Criminal Punishment Code; worksheet computations;
572 scoresheets.-

573 (1)

574 (b) WORKSHEET KEY:

575

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

580

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

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

591 2. If the community sanction violation is committed by a
592 violent felony offender of special concern as defined in s.
593 948.06:

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

597 I. The violation does not include a new felony conviction;
598 and

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

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

606

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

610

611 Prior serious felony points: If the offender has a primary
612 offense or any additional offense ranked in level 8, level 9, or
613 level 10, and one or more prior serious felonies, a single
614 assessment of thirty (30) points shall be added. For purposes of

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615 this section, a prior serious felony is an offense in the
616 offender's prior record that is ranked in level 8, level 9, or
617 level 10 under s. 921.0022 or s. 921.0023 and for which the
618 offender is serving a sentence of confinement, supervision, or
619 other sanction or for which the offender's date of release from
620 confinement, supervision, or other sanction, whichever is later,
621 is within 3 years before the date the primary offense or any
622 additional offense was committed.

623

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

635

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

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644 semiautomatic firearm as defined in s. 775.087(3) or a machine
645 gun as defined in s. 790.001(9), an additional twenty-five (25)
646 sentence points are assessed.

647

648 Sentencing multipliers:

649

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

657

658 Law enforcement protection: If the primary offense is a
659 violation of the Law Enforcement Protection Act under s.
660 775.0823(2), (3), or (4), the subtotal sentence points are
661 multiplied by 2.5. If the primary offense is a violation of s.
662 775.0823(5), (6), (7), ~~(8)~~, ~~or (9)~~, the subtotal sentence
663 points are multiplied by 2.0. If the primary offense is a
664 violation of s. 784.07(3) or s. 775.0875(1), or of the Law
665 Enforcement Protection Act under s. 775.0823(8) or (9) ~~s.~~
666 ~~775.0823(10) or (11)~~, the subtotal sentence points are
667 multiplied by 1.5.

668

669 Grand theft of a motor vehicle: If the primary offense is grand
670 theft of the third degree involving a motor vehicle and in the
671 offender's prior record, there are three or more grand thefts of
672 the third degree involving a motor vehicle, the subtotal

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673 sentence points are multiplied by 1.5.

674

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

684

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

692

693 Adult-on-minor sex offense: If the offender was 18 years of age
694 or older and the victim was younger than 18 years of age at the
695 time the offender committed the primary offense, and if the
696 primary offense was an offense committed on or after October 1,
697 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
698 violation involved a victim who was a minor and, in the course
699 of committing that violation, the defendant committed a sexual
700 battery under chapter 794 or a lewd act under s. 800.04 or s.
701 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.

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702 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
703 800.04; or s. 847.0135(5), the subtotal sentence points are
704 multiplied by 2.0. If applying the multiplier results in the
705 lowest permissible sentence exceeding the statutory maximum
706 sentence for the primary offense under chapter 775, the court
707 may not apply the multiplier and must sentence the defendant to
708 the statutory maximum sentence.

709 Section 12. This act shall take effect July 1, 2022.