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LEGISLATIVE ACTION

Senate

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House

The Committee on Criminal Justice (Pizzo) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 50 - 156

and insert:

substances, when such substance or mixture is proven to be the proximate cause of the death of the user:

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

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

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



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- 11 d. Methadone;
- 12 e. Alfentanil, as described in s. 893.03(2)(b)1.;
- 13 f. Carfentanil, as described in s. 893.03(2)(b)6.;
- 14 g. Fentanyl, as described in s. 893.03(2)(b)9.;
- 15 h. Sufentanil, as described in s. 893.03(2)(b)30.; ~~or~~
- 16 i. Methamphetamine, as described in s. 893.03(2)(c)5.; or
- 17 j. A controlled substance analog, as described in s.
- 18 893.0356, of any substance specified in sub-subparagraphs a.-i.
- 19 ~~sub-subparagraphs a.-h.,~~

20

21 is murder in the first degree and constitutes a capital felony,
22 punishable as provided in s. 775.082.

23 (4) The unlawful killing of a human being, when perpetrated
24 without any design to effect death, by a person engaged in the
25 perpetration of, or in the attempt to perpetrate, any felony
26 other than any:

- 27 (a) Trafficking offense prohibited by s. 893.135(1),
- 28 (b) Arson,
- 29 (c) Sexual battery,
- 30 (d) Robbery,
- 31 (e) Burglary,
- 32 (f) Kidnapping,
- 33 (g) Escape,
- 34 (h) Aggravated child abuse,
- 35 (i) Aggravated abuse of an elderly person or disabled
- 36 adult,
- 37 (j) Aircraft piracy,
- 38 (k) Unlawful throwing, placing, or discharging of a
- 39 destructive device or bomb,



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40 (1) Unlawful distribution of any substance listed in sub-
41 subparagraphs (1) (a) 3.a.-j. controlled under s. 893.03(1),
42 cocaine as described in s. 893.03(2) (a) 4., or opium or any
43 synthetic or natural salt, compound, derivative, or preparation
44 of opium by a person 18 years of age or older, when such
45 substance drug is proven to be the proximate cause of the death
46 of the user,

47 (m) Carjacking,

48 (n) Home-invasion robbery,

49 (o) Aggravated stalking,

50 (p) Murder of another human being,

51 (q) Aggravated fleeing or eluding with serious bodily
52 injury or death,

53 (r) Resisting an officer with violence to his or her
54 person, or

55 (s) Felony that is an act of terrorism or is in furtherance
56 of an act of terrorism, including a felony under s. 775.30, s.
57 775.32, s. 775.33, s. 775.34, or s. 775.35,

58
59 is murder in the third degree and constitutes a felony of the
60 second degree, punishable as provided in s. 775.082, s. 775.083,
61 or s. 775.084.

62 Section 2. Paragraph (h) of subsection (1) of section
63 893.13, Florida Statutes, is amended to read:

64 893.13 Prohibited acts; penalties.—

65 (1)

66 (h) Except as authorized by this chapter, a person may not
67 sell, manufacture, or deliver, or possess with intent to sell,
68 manufacture, or deliver, a controlled substance in, on, or



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69 within 1,000 feet of the real property comprising a mental
70 health facility, as that term is used in chapter 394; a health
71 care facility licensed under chapter 395 which provides
72 substance abuse treatment; a licensed service provider as
73 defined in s. 397.311; a facility providing services that
74 include clinical treatment, intervention, or prevention as
75 described in s. 397.311(26); a recovery residence as defined in
76 s. 397.311; an assisted living facility, as defined ~~that term is~~
77 used in chapter 429; or a pain management clinic as defined in
78 s. 458.3265(1)(a)1.c. or s. 459.0137(1)(a)1.c. A person who
79 violates this paragraph with respect to:

80 1. A controlled substance named or described in s.
81 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.
82 commits a felony of the first degree, punishable as provided in
83 s. 775.082, s. 775.083, or s. 775.084.

84 2. A controlled substance named or described in s.
85 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,
86 (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of
87 the second degree, punishable as provided in s. 775.082, s.
88 775.083, or s. 775.084.

89 3. Any other controlled substance, except as lawfully sold,
90 manufactured, or delivered, must be sentenced to pay a \$500 fine
91 and to serve 100 hours of public service in addition to any
92 other penalty prescribed by law.

93 Section 3. Subsection (4) of section 893.145, Florida
94 Statutes, is amended to read:

95 893.145 "Drug paraphernalia" defined.—The term "drug
96 paraphernalia" means all equipment, products, and materials of
97 any kind which are used, intended for use, or designed for use



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98 in planting, propagating, cultivating, growing, harvesting,
99 manufacturing, compounding, converting, producing, processing,
100 preparing, testing, analyzing, packaging, repackaging, storing,
101 containing, concealing, transporting, injecting, ingesting,
102 inhaling, or otherwise introducing into the human body a
103 controlled substance in violation of this chapter or s. 877.111.
104 Drug paraphernalia is deemed to be contraband which shall be
105 subject to civil forfeiture. The term includes, but is not
106 limited to:

107 (4) Testing equipment used, intended for use, or designed
108 for use in identifying, or in analyzing the strength,
109 effectiveness, or purity of, controlled substances, excluding
110 narcotic drug testing products that are used to determine
111 whether a controlled substance contains fentanyl, as described
112 in s. 893.03(2)(b)9. or a controlled substance analog, as
113 described in s. 893.0356, of fentanyl.

114 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

115 And the directory clause is amended as follows:

116 Delete lines 15 - 16

117 and insert:

118 Section 1. Paragraph (a) of subsection (1) and subsection
119 (4) of section 782.04, Florida Statutes, are amended to

120 ===== T I T L E A M E N D M E N T =====

121 And the title is amended as follows:

122 Delete lines 6 - 10

123 and insert:

124 offense of murder in the third degree; amending s.
125 893.13, F.S.; prohibiting specified activities
126 involving controlled substances within 1,000 feet of



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127 additional specified facilities; providing criminal
128 penalties; amending s. 893.145, F.S.; revising the
129 definition of "drug paraphernalia"; providing an