

By Senator Brodeur

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1 A bill to be entitled
2 An act relating to controlled substances; amending s.
3 782.04, F.S.; revising the elements that constitute
4 the capital offense of murder in the first degree;
5 defining the term "substantial factor"; amending s.
6 893.13, F.S.; prohibiting specified activities
7 involving controlled substances within 1,000 feet of
8 additional specified facilities; providing criminal
9 penalties; providing an effective date.

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

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13 Section 1. Paragraph (a) of subsection (1) of section
14 782.04, Florida Statutes, is amended to read:

15 782.04 Murder.—

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

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

19 2. When committed by a person engaged in the perpetration
20 of, or in the attempt to perpetrate, any:

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

22 b. Arson,

23 c. Sexual battery,

24 d. Robbery,

25 e. Burglary,

26 f. Kidnapping,

27 g. Escape,

28 h. Aggravated child abuse,

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

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- 30 j. Aircraft piracy,
- 31 k. Unlawful throwing, placing, or discharging of a
32 destructive device or bomb,
- 33 l. Carjacking,
- 34 m. Home-invasion robbery,
- 35 n. Aggravated stalking,
- 36 o. Murder of another human being,
- 37 p. Resisting an officer with violence to his or her person,
- 38 q. Aggravated fleeing or eluding with serious bodily injury
39 or death,
- 40 r. Felony that is an act of terrorism or is in furtherance
41 of an act of terrorism, including a felony under s. 775.30, s.
42 775.32, s. 775.33, s. 775.34, or s. 775.35, or
- 43 s. Human trafficking; or
- 44 3. Which resulted from the unlawful distribution by a
45 person 18 years of age or older of any of the following
46 substances, or mixture containing any of the following
47 substances, when such substance or mixture is proven to have
48 caused, or is proven to have been a substantial factor in
49 producing, ~~be the proximate cause of~~ the death of the user:
- 50 a. A substance controlled under s. 893.03(1);
- 51 b. Cocaine, as described in s. 893.03(2)(a)4.;
- 52 c. Opium or any synthetic or natural salt, compound,
53 derivative, or preparation of opium;
- 54 d. Methadone;
- 55 e. Alfentanil, as described in s. 893.03(2)(b)1.;
- 56 f. Carfentanil, as described in s. 893.03(2)(b)6.;
- 57 g. Fentanyl, as described in s. 893.03(2)(b)9.;
- 58 h. Sufentanil, as described in s. 893.03(2)(b)30.; ~~or~~

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59 i. Methamphetamine, as described in s. 893.03(2)(c)5.; or
 60 j. A controlled substance analog, as described in s.
 61 893.0356, of any substance specified in sub-subparagraphs a.-i.
 62 ~~sub-subparagraphs a.-h.,~~

63
 64 is murder in the first degree and constitutes a capital felony,
 65 punishable as provided in s. 775.082. As used in this paragraph,
 66 the term "substantial factor" means that the use of the
 67 substance or mixture alone is sufficient to cause death,
 68 regardless of whether any other substance or mixture used is
 69 also sufficient to cause death.

70 Section 2. Paragraph (h) of subsection (1) of section
 71 893.13, Florida Statutes, is amended to read:

72 893.13 Prohibited acts; penalties.—

73 (1)

74 (h) Except as authorized by this chapter, a person may not
 75 sell, manufacture, or deliver, or possess with intent to sell,
 76 manufacture, or deliver, a controlled substance in, on, or
 77 within 1,000 feet of the real property comprising a mental
 78 health facility, as that term is used in chapter 394; a health
 79 care facility licensed under chapter 395 which provides
 80 substance abuse treatment; a licensed service provider as
 81 defined in s. 397.311; a facility providing services that
 82 include clinical treatment, intervention, or prevention as
 83 described in s. 397.311(26); a recovery residence as defined in
 84 s. 397.311; an assisted living facility, as defined that term is
 85 used in chapter 429; or a pain management clinic as defined in
 86 s. 458.3265(1)(a)1.c. or s. 459.0137(1)(a)1.c. A person who
 87 violates this paragraph with respect to:

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88 1. A controlled substance named or described in s.
89 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.
90 commits a felony of the first degree, punishable as provided in
91 s. 775.082, s. 775.083, or s. 775.084.

92 2. A controlled substance named or described in s.
93 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,
94 (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of
95 the second degree, punishable as provided in s. 775.082, s.
96 775.083, or s. 775.084.

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

101 Section 3. This act shall take effect October 1, 2022.