

By the Committee on Judiciary; and Senator Brodeur

590-01911-22

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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 revising the elements that constitute the felony
6 offense of murder in the third degree; defining the
7 term "substantial factor"; amending s. 893.13, F.S.;
8 prohibiting specified activities involving controlled
9 substances within 1,000 feet of additional specified
10 facilities; providing criminal penalties; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Paragraph (a) of subsection (1) and subsections
16 (4) and (5) of section 782.04, Florida Statutes, are amended to
17 read:

18 782.04 Murder.—

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

- 20 1. When perpetrated from a premeditated design to effect
21 the death of the person killed or any human being;
22 2. When committed by a person engaged in the perpetration
23 of, or in the attempt to perpetrate, any:
- 24 a. Trafficking offense prohibited by s. 893.135(1),
 - 25 b. Arson,
 - 26 c. Sexual battery,
 - 27 d. Robbery,
 - 28 e. Burglary,
 - 29 f. Kidnapping,

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

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

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

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

62 i. Methamphetamine, as described in s. 893.03(2)(c)5.; or

63 j. A controlled substance analog, as described in s.

64 893.0356, of any substance specified in sub-subparagraphs a.-i.

65 ~~sub-subparagraphs a.-h.~~,

66
67 is murder in the first degree and constitutes a capital felony,
68 punishable as provided in s. 775.082.

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

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

74 (b) Arson,

75 (c) Sexual battery,

76 (d) Robbery,

77 (e) Burglary,

78 (f) Kidnapping,

79 (g) Escape,

80 (h) Aggravated child abuse,

81 (i) Aggravated abuse of an elderly person or disabled
82 adult,

83 (j) Aircraft piracy,

84 (k) Unlawful throwing, placing, or discharging of a
85 destructive device or bomb,

86 (l) Unlawful distribution of any substance listed in sub-
87 subparagraphs (1)(a)3.a.-j. ~~controlled under s. 893.03(1),~~

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88 ~~cocaine as described in s. 893.03(2)(a)4., or opium or any~~
89 ~~synthetic or natural salt, compound, derivative, or preparation~~
90 ~~of opium~~ by a person 18 years of age or older, when such
91 substance drug is proven to have caused, or is proven to have
92 been a substantial factor in producing, ~~be the proximate cause~~
93 ~~of~~ the death of the user,

94 (m) Carjacking,

95 (n) Home-invasion robbery,

96 (o) Aggravated stalking,

97 (p) Murder of another human being,

98 (q) Aggravated fleeing or eluding with serious bodily
99 injury or death,

100 (r) Resisting an officer with violence to his or her
101 person, or

102 (s) Felony that is an act of terrorism or is in furtherance
103 of an act of terrorism, including a felony under s. 775.30, s.
104 775.32, s. 775.33, s. 775.34, or s. 775.35,

105
106 is murder in the third degree and constitutes a felony of the
107 second degree, punishable as provided in s. 775.082, s. 775.083,
108 or s. 775.084.

109 (5) As used in this section, the term:

110 (a) "Substantial factor" means that the use of the
111 substance or mixture alone is sufficient to cause death,
112 regardless of whether any other substance or mixture used is
113 also sufficient to cause death.

114 (b) "Terrorism" means an activity that:

115 1.a.(a)1. Involves a violent act or an act dangerous to
116 human life which is a violation of the criminal laws of this

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117 state or of the United States; or
118 ~~b.2.~~ Involves a violation of s. 815.06; and
119 ~~2.(b)~~ Is intended to:
120 ~~a.1.~~ Intimidate, injure, or coerce a civilian population;
121 ~~b.2.~~ Influence the policy of a government by intimidation
122 or coercion; or
123 ~~c.3.~~ Affect the conduct of government through destruction
124 of property, assassination, murder, kidnapping, or aircraft
125 piracy.

126 Section 2. Paragraph (h) of subsection (1) of section
127 893.13, Florida Statutes, is amended to read:

128 893.13 Prohibited acts; penalties.—

129 (1)

130 (h) Except as authorized by this chapter, a person may not
131 sell, manufacture, or deliver, or possess with intent to sell,
132 manufacture, or deliver, a controlled substance in, on, or
133 within 1,000 feet of the real property comprising a mental
134 health facility, as that term is used in chapter 394; a health
135 care facility licensed under chapter 395 which provides
136 substance abuse treatment; a licensed service provider as
137 defined in s. 397.311; a facility providing services that
138 include clinical treatment, intervention, or prevention as
139 described in s. 397.311(26); a recovery residence as defined in
140 s. 397.311; an assisted living facility, as defined ~~that term is~~
141 used in chapter 429; or a pain management clinic as defined in
142 s. 458.3265(1)(a)1.c. or s. 459.0137(1)(a)1.c. A person who
143 violates this paragraph with respect to:

144 1. A controlled substance named or described in s.
145 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.

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146 commits a felony of the first degree, punishable as provided in
147 s. 775.082, s. 775.083, or s. 775.084.

148 2. A controlled substance named or described in s.
149 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,
150 (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of
151 the second degree, punishable as provided in s. 775.082, s.
152 775.083, or s. 775.084.

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

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