

By the Committees on Criminal Justice; and Judiciary; and  
Senator Brodeur

591-02805-22

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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; amending s.  
7 893.13, F.S.; prohibiting specified activities  
8 involving controlled substances within 1,000 feet of  
9 additional specified facilities; providing criminal  
10 penalties; amending s. 893.145, F.S.; revising the  
11 definition of the term "drug paraphernalia"; providing  
12 an effective date.

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

15  
16 Section 1. Paragraph (a) of subsection (1) and subsection  
17 (4) of section 782.04, Florida Statutes, are amended to 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 be the
- 51 proximate cause of the death of the user:
- 52 a. A substance controlled under s. 893.03(1);
- 53 b. Cocaine, as described in s. 893.03(2)(a)4.;
- 54 c. Opium or any synthetic or natural salt, compound,
- 55 derivative, or preparation of opium;
- 56 d. Methadone;
- 57 e. Alfentanil, as described in s. 893.03(2)(b)1.;
- 58 f. Carfentanil, as described in s. 893.03(2)(b)6.;

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

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

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

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

63 893.0356, of any substance specified in sub-subparagraphs a.-i.

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

65  
66 is murder in the first degree and constitutes a capital felony,  
67 punishable as provided in s. 775.082.

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

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

73 (b) Arson,

74 (c) Sexual battery,

75 (d) Robbery,

76 (e) Burglary,

77 (f) Kidnapping,

78 (g) Escape,

79 (h) Aggravated child abuse,

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

82 (j) Aircraft piracy,

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

85 (l) Unlawful distribution of any substance listed in sub-  
86 subparagraphs (1)(a)3.a.-j. ~~controlled under s. 893.03(1),~~  
87 ~~cocaine as described in s. 893.03(2)(a)4., or opium or any~~

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88 ~~synthetic or natural salt, compound, derivative, or preparation~~  
89 ~~of opium~~ by a person 18 years of age or older, when such  
90 substance drug is proven to be the proximate cause of the death  
91 of the user,

92 (m) Carjacking,

93 (n) Home-invasion robbery,

94 (o) Aggravated stalking,

95 (p) Murder of another human being,

96 (q) Aggravated fleeing or eluding with serious bodily  
97 injury or death,

98 (r) Resisting an officer with violence to his or her  
99 person, or

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

103

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

107 Section 2. Paragraph (h) of subsection (1) of section  
108 893.13, Florida Statutes, is amended to read:

109 893.13 Prohibited acts; penalties.—

110 (1)

111 (h) Except as authorized by this chapter, a person may not  
112 sell, manufacture, or deliver, or possess with intent to sell,  
113 manufacture, or deliver, a controlled substance in, on, or  
114 within 1,000 feet of the real property comprising a mental  
115 health facility, as that term is used in chapter 394; a health  
116 care facility licensed under chapter 395 which provides

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117 substance abuse treatment; a licensed service provider as  
118 defined in s. 397.311; a facility providing services that  
119 include clinical treatment, intervention, or prevention as  
120 described in s. 397.311(26); a recovery residence as defined in  
121 s. 397.311; an assisted living facility, as defined ~~that term is~~  
122 used in chapter 429; or a pain management clinic as defined in  
123 s. 458.3265(1)(a)1.c. or s. 459.0137(1)(a)1.c. A person who  
124 violates this paragraph with respect to:

125 1. A controlled substance named or described in s.  
126 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.  
127 commits a felony of the first degree, punishable as provided in  
128 s. 775.082, s. 775.083, or s. 775.084.

129 2. A controlled substance named or described in s.  
130 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,  
131 (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of  
132 the second degree, punishable as provided in s. 775.082, s.  
133 775.083, or s. 775.084.

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

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

140 893.145 "Drug paraphernalia" defined.—The term "drug  
141 paraphernalia" means all equipment, products, and materials of  
142 any kind which are used, intended for use, or designed for use  
143 in planting, propagating, cultivating, growing, harvesting,  
144 manufacturing, compounding, converting, producing, processing,  
145 preparing, testing, analyzing, packaging, repackaging, storing,

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146 containing, concealing, transporting, injecting, ingesting,  
147 inhaling, or otherwise introducing into the human body a  
148 controlled substance in violation of this chapter or s. 877.111.  
149 Drug paraphernalia is deemed to be contraband which shall be  
150 subject to civil forfeiture. The term includes, but is not  
151 limited to:

152 (4) Testing equipment used, intended for use, or designed  
153 for use in identifying, or in analyzing the strength,  
154 effectiveness, or purity of, controlled substances, excluding  
155 narcotic drug testing products that are used to determine  
156 whether a controlled substance contains fentanyl as described in  
157 s. 893.03(2)(b)9. or a controlled substance analog, as defined  
158 in s. 893.0356, of fentanyl.

159 Section 4. This act shall take effect October 1, 2022.