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LEGISLATIVE ACTION

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| Senate | . | House |
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| Floor: 1/AE/2R | . | Floor: CA |
| 03/03/2022 06:06 PM | . | 03/11/2022 11:12 AM |
| | . | |

Senator Brodeur moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

782.04 Murder.—

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

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

2. When committed by a person engaged in the perpetration



12 of, or in the attempt to perpetrate, any:
13 a. Trafficking offense prohibited by s. 893.135(1),
14 b. Arson,
15 c. Sexual battery,
16 d. Robbery,
17 e. Burglary,
18 f. Kidnapping,
19 g. Escape,
20 h. Aggravated child abuse,
21 i. Aggravated abuse of an elderly person or disabled adult,
22 j. Aircraft piracy,
23 k. Unlawful throwing, placing, or discharging of a
24 destructive device or bomb,
25 l. Carjacking,
26 m. Home-invasion robbery,
27 n. Aggravated stalking,
28 o. Murder of another human being,
29 p. Resisting an officer with violence to his or her person,
30 q. Aggravated fleeing or eluding with serious bodily injury
31 or death,
32 r. Felony that is an act of terrorism or is in furtherance
33 of an act of terrorism, including a felony under s. 775.30, s.
34 775.32, s. 775.33, s. 775.34, or s. 775.35, or
35 s. Human trafficking; or
36 3. Which resulted from the unlawful distribution by a
37 person 18 years of age or older of any of the following
38 substances, or mixture containing any of the following
39 substances, when such substance or mixture is proven to be the
40 proximate cause of the death of the user:



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- 41 a. A substance controlled under s. 893.03(1);
42 b. Cocaine, as described in s. 893.03(2)(a)4.;
43 c. Opium or any synthetic or natural salt, compound,
44 derivative, or preparation of opium;
45 d. Methadone;
46 e. Alfentanil, as described in s. 893.03(2)(b)1.;
47 f. Carfentanil, as described in s. 893.03(2)(b)6.;
48 g. Fentanyl, as described in s. 893.03(2)(b)9.;
49 h. Sufentanil, as described in s. 893.03(2)(b)30.; ~~or~~
50 i. Methamphetamine, as described in s. 893.03(2)(c)5.; or
51 j. A controlled substance analog, as described in s.
52 893.0356, of any substance specified in sub-subparagraphs a.-i.
53 ~~sub-subparagraphs a.-h.,~~
54
55 is murder in the first degree and constitutes a capital felony,
56 punishable as provided in s. 775.082.
57 (4) The unlawful killing of a human being, when perpetrated
58 without any design to effect death, by a person engaged in the
59 perpetration of, or in the attempt to perpetrate, any felony
60 other than any:
61 (a) Trafficking offense prohibited by s. 893.135(1),
62 (b) Arson,
63 (c) Sexual battery,
64 (d) Robbery,
65 (e) Burglary,
66 (f) Kidnapping,
67 (g) Escape,
68 (h) Aggravated child abuse,
69 (i) Aggravated abuse of an elderly person or disabled



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70 adult,
71 (j) Aircraft piracy,
72 (k) Unlawful throwing, placing, or discharging of a
73 destructive device or bomb,
74 (l) Unlawful distribution of any substance listed in sub-
75 subparagraphs (1) (a) 3.a.-j. controlled under s. 893.03(1),
76 cocaine as described in s. 893.03(2) (a) 4., or opium or any
77 synthetic or natural salt, compound, derivative, or preparation
78 of opium by a person 18 years of age or older, when such
79 substance drug is proven to be the proximate cause of the death
80 of the user,
81 (m) Carjacking,
82 (n) Home-invasion robbery,
83 (o) Aggravated stalking,
84 (p) Murder of another human being,
85 (q) Aggravated fleeing or eluding with serious bodily
86 injury or death,
87 (r) Resisting an officer with violence to his or her
88 person, or
89 (s) Felony that is an act of terrorism or is in furtherance
90 of an act of terrorism, including a felony under s. 775.30, s.
91 775.32, s. 775.33, s. 775.34, or s. 775.35,
92
93 is murder in the third degree and constitutes a felony of the
94 second degree, punishable as provided in s. 775.082, s. 775.083,
95 or s. 775.084.
96 Section 2. Paragraphs (e) and (h) of subsection (1) of
97 section 893.13, Florida Statutes, are amended to read:
98 893.13 Prohibited acts; penalties.—



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99 (1)

100 (e) Except as authorized by this chapter, a person may not
101 sell, manufacture, or deliver, or possess with intent to sell,
102 manufacture, or deliver, a controlled substance not authorized
103 by law in, on, or within 1,000 feet of a physical place for
104 worship at which a church or religious organization regularly
105 conducts religious services when such church or religious
106 organization is conducting services or other activities or
107 within 1,000 feet of a convenience business as defined in s.
108 812.171. A person who violates this paragraph with respect to:

109 1. A controlled substance named or described in s.
110 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.
111 commits a felony of the first degree, punishable as provided in
112 s. 775.082, s. 775.083, or s. 775.084.

113 2. A controlled substance named or described in s.
114 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,
115 (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of
116 the second degree, punishable as provided in s. 775.082, s.
117 775.083, or s. 775.084.

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

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



128 substance abuse treatment; a licensed service provider as
129 defined in s. 397.311; a facility providing services that
130 include clinical treatment, intervention, or prevention as
131 described in s. 397.311(26); a recovery residence as defined in
132 s. 397.311; an assisted living facility, ~~as defined that term is~~
133 ~~used~~ in chapter 429; or a pain management clinic as defined in
134 s. 458.3265(1)(a)1.c. or s. 459.0137(1)(a)1.c. A person who
135 violates this paragraph with respect to:

136 1. A controlled substance named or described in s.
137 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.
138 commits a felony of the first degree, punishable as provided in
139 s. 775.082, s. 775.083, or s. 775.084.

140 2. A controlled substance named or described in s.
141 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,
142 (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of
143 the second degree, punishable as provided in s. 775.082, s.
144 775.083, or s. 775.084.

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

149 Section 3. Paragraph (c) of subsection (1) of section
150 893.135, Florida Statutes, is amended to read:

151 893.135 Trafficking; mandatory sentences; suspension or
152 reduction of sentences; conspiracy to engage in trafficking.—

153 (1) Except as authorized in this chapter or in chapter 499
154 and notwithstanding the provisions of s. 893.13:

155 (c)1. A person who knowingly sells, purchases,
156 manufactures, delivers, or brings into this state, or who is



157 knowingly in actual or constructive possession of, 4 grams or
158 more of any morphine, opium, hydromorphone, or any salt,
159 derivative, isomer, or salt of an isomer thereof, including
160 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
161 (3)(c)4., or 4 grams or more of any mixture containing any such
162 substance, but less than 30 kilograms of such substance or
163 mixture, commits a felony of the first degree, which felony
164 shall be known as "trafficking in illegal drugs," punishable as
165 provided in s. 775.082, s. 775.083, or s. 775.084. If the
166 quantity involved:

167 a. Is 4 grams or more, but less than 14 grams, such person
168 shall be sentenced to a mandatory minimum term of imprisonment
169 of 3 years and shall be ordered to pay a fine of \$50,000.

170 b. Is 14 grams or more, but less than 28 grams, such person
171 shall be sentenced to a mandatory minimum term of imprisonment
172 of 15 years and shall be ordered to pay a fine of \$100,000.

173 c. Is 28 grams or more, but less than 30 kilograms, such
174 person shall be sentenced to a mandatory minimum term of
175 imprisonment of 25 years and shall be ordered to pay a fine of
176 \$500,000.

177 2. A person who knowingly sells, purchases, manufactures,
178 delivers, or brings into this state, or who is knowingly in
179 actual or constructive possession of, 28 grams or more of
180 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as
181 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28
182 grams or more of any mixture containing any such substance,
183 commits a felony of the first degree, which felony shall be
184 known as "trafficking in hydrocodone," punishable as provided in
185 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:



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186 a. Is 28 grams or more, but less than 50 grams, such person
187 shall be sentenced to a mandatory minimum term of imprisonment
188 of 3 years and shall be ordered to pay a fine of \$50,000.

189 b. Is 50 grams or more, but less than 100 grams, such
190 person shall be sentenced to a mandatory minimum term of
191 imprisonment of 7 years and shall be ordered to pay a fine of
192 \$100,000.

193 c. Is 100 grams or more, but less than 300 grams, such
194 person shall be sentenced to a mandatory minimum term of
195 imprisonment of 15 years and shall be ordered to pay a fine of
196 \$500,000.

197 d. Is 300 grams or more, but less than 30 kilograms, such
198 person shall be sentenced to a mandatory minimum term of
199 imprisonment of 25 years and shall be ordered to pay a fine of
200 \$750,000.

201 3. A person who knowingly sells, purchases, manufactures,
202 delivers, or brings into this state, or who is knowingly in
203 actual or constructive possession of, 7 grams or more of
204 oxycodone, as described in s. 893.03(2)(a)1.q., or any salt
205 thereof, or 7 grams or more of any mixture containing any such
206 substance, commits a felony of the first degree, which felony
207 shall be known as "trafficking in oxycodone," punishable as
208 provided in s. 775.082, s. 775.083, or s. 775.084. If the
209 quantity involved:

210 a. Is 7 grams or more, but less than 14 grams, such person
211 shall be sentenced to a mandatory minimum term of imprisonment
212 of 3 years and shall be ordered to pay a fine of \$50,000.

213 b. Is 14 grams or more, but less than 25 grams, such person
214 shall be sentenced to a mandatory minimum term of imprisonment



215 of 7 years and shall be ordered to pay a fine of \$100,000.
216 c. Is 25 grams or more, but less than 100 grams, such
217 person shall be sentenced to a mandatory minimum term of
218 imprisonment of 15 years and shall be ordered to pay a fine of
219 \$500,000.
220 d. Is 100 grams or more, but less than 30 kilograms, such
221 person shall be sentenced to a mandatory minimum term of
222 imprisonment of 25 years and shall be ordered to pay a fine of
223 \$750,000.
224 4.a. A person who knowingly sells, purchases, manufactures,
225 delivers, or brings into this state, or who is knowingly in
226 actual or constructive possession of, 4 grams or more of:
227 (I) Alfentanil, as described in s. 893.03(2)(b)1.;
228 (II) Carfentanil, as described in s. 893.03(2)(b)6.;
229 (III) Fentanyl, as described in s. 893.03(2)(b)9.;
230 (IV) Sufentanil, as described in s. 893.03(2)(b)30.;
231 (V) A fentanyl derivative, as described in s.
232 893.03(1)(a)62.;
233 (VI) A controlled substance analog, as described in s.
234 893.0356, of any substance described in sub-sub-subparagraphs
235 (I)-(V); or
236 (VII) A mixture containing any substance described in sub-
237 sub-subparagraphs (I)-(VI),
238
239 commits a felony of the first degree, which felony shall be
240 known as "trafficking in dangerous fentanyl or fentanyl
241 analogues," punishable as provided in s. 775.082, s. 775.083, or
242 s. 775.084.
243 b. If the quantity involved under sub-subparagraph a.:



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244 (I) Is 4 grams or more, but less than 14 grams, such person
245 shall be sentenced to a mandatory minimum term of imprisonment
246 of 7 ~~3~~ years, and shall be ordered to pay a fine of \$50,000.

247 (II) Is 14 grams or more, but less than 28 grams, such
248 person shall be sentenced to a mandatory minimum term of
249 imprisonment of 20 ~~15~~ years, and shall be ordered to pay a fine
250 of \$100,000.

251 (III) Is 28 grams or more, such person shall be sentenced
252 to a mandatory minimum term of imprisonment of 25 years, and
253 shall be ordered to pay a fine of \$500,000.

254 5. A person who knowingly sells, purchases, manufactures,
255 delivers, or brings into this state, or who is knowingly in
256 actual or constructive possession of, 30 kilograms or more of
257 any morphine, opium, oxycodone, hydrocodone, codeine,
258 hydromorphone, or any salt, derivative, isomer, or salt of an
259 isomer thereof, including heroin, as described in s.
260 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
261 more of any mixture containing any such substance, commits the
262 first degree felony of trafficking in illegal drugs. A person
263 who has been convicted of the first degree felony of trafficking
264 in illegal drugs under this subparagraph shall be punished by
265 life imprisonment and is ineligible for any form of
266 discretionary early release except pardon or executive clemency
267 or conditional medical release under s. 947.149. However, if the
268 court determines that, in addition to committing any act
269 specified in this paragraph:

270 a. The person intentionally killed an individual or
271 counseled, commanded, induced, procured, or caused the
272 intentional killing of an individual and such killing was the



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273 result; or

274 b. The person's conduct in committing that act led to a
275 natural, though not inevitable, lethal result,

276
277 such person commits the capital felony of trafficking in illegal
278 drugs, punishable as provided in ss. 775.082 and 921.142. A
279 person sentenced for a capital felony under this paragraph shall
280 also be sentenced to pay the maximum fine provided under
281 subparagraph 1.

282 6. A person who knowingly brings into this state 60
283 kilograms or more of any morphine, opium, oxycodone,
284 hydrocodone, codeine, hydromorphone, or any salt, derivative,
285 isomer, or salt of an isomer thereof, including heroin, as
286 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
287 60 kilograms or more of any mixture containing any such
288 substance, and who knows that the probable result of such
289 importation would be the death of a person, commits capital
290 importation of illegal drugs, a capital felony punishable as
291 provided in ss. 775.082 and 921.142. A person sentenced for a
292 capital felony under this paragraph shall also be sentenced to
293 pay the maximum fine provided under subparagraph 1.

294 Section 4. Subsection (4) of section 893.145, Florida
295 Statutes, is amended to read:

296 893.145 "Drug paraphernalia" defined.—The term "drug
297 paraphernalia" means all equipment, products, and materials of
298 any kind which are used, intended for use, or designed for use
299 in planting, propagating, cultivating, growing, harvesting,
300 manufacturing, compounding, converting, producing, processing,
301 preparing, testing, analyzing, packaging, repackaging, storing,



302 containing, concealing, transporting, injecting, ingesting,
303 inhaling, or otherwise introducing into the human body a
304 controlled substance in violation of this chapter or s. 877.111.
305 Drug paraphernalia is deemed to be contraband which shall be
306 subject to civil forfeiture. The term includes, but is not
307 limited to:

308 (4) Testing equipment used, intended for use, or designed
309 for use in identifying, or in analyzing the strength,
310 effectiveness, or purity of, controlled substances, excluding
311 narcotic drug testing products that are used to determine
312 whether a controlled substance contains fentanyl as described in
313 s. 893.03(2)(b)9. or a controlled substance analog, as defined
314 in s. 893.0356, of fentanyl.

315 Section 5. This act shall take effect October 1, 2022.

316
317 ===== T I T L E A M E N D M E N T =====

318 And the title is amended as follows:

319 Delete everything before the enacting clause
320 and insert:

321 A bill to be entitled
322 An act relating to controlled substances; amending s.
323 782.04, F.S.; revising the elements that constitute
324 the capital offense of murder in the first degree;
325 revising the elements that constitute the felony
326 offense of murder in the third degree; amending s.
327 893.13, F.S.; revising specified prohibited activities
328 involving controlled substances within 1,000 feet of
329 specified places of worship when churches or religious
330 organizations are conducting services or other



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331 activities; prohibiting specified activities involving
332 controlled substances within 1,000 feet of additional
333 specified facilities; providing criminal penalties;
334 amending s. 893.135, F.S.; renaming what the violation
335 of specified offenses are known as from "trafficking
336 in fentanyl" to "trafficking in dangerous fentanyl or
337 fentanyl analogues"; increasing the mandatory minimum
338 terms of imprisonment for specified offenses; amending
339 s. 893.145, F.S.; revising the definition of the term
340 "drug paraphernalia"; providing an effective date.