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LEGISLATIVE ACTION

Senate

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House

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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



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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. Paragraph (h) of subsection (1) of section
97 893.13, Florida Statutes, is amended to read:
98 893.13 Prohibited acts; penalties.—



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99 (1)

100 (h) 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 in, on, or
103 within 1,000 feet of the real property comprising a mental
104 health facility, as that term is used in chapter 394; a health
105 care facility licensed under chapter 395 which provides
106 substance abuse treatment; a licensed service provider as
107 defined in s. 397.311; a facility providing services that
108 include clinical treatment, intervention, or prevention as
109 described in s. 397.311(26); a recovery residence as defined in
110 s. 397.311; an assisted living facility, as defined ~~that term is~~
111 used in chapter 429; or a pain management clinic as defined in
112 s. 458.3265(1)(a)1.c. or s. 459.0137(1)(a)1.c. A person who
113 violates this paragraph with respect to:

114 1. A controlled substance named or described in s.
115 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.
116 commits a felony of the first degree, punishable as provided in
117 s. 775.082, s. 775.083, or s. 775.084.

118 2. A controlled substance named or described in s.
119 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,
120 (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of
121 the second degree, punishable as provided in s. 775.082, s.
122 775.083, or s. 775.084.

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

127 Section 3. Paragraph (c) of subsection (1) of section



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128 893.135, Florida Statutes, is amended to read:

129 893.135 Trafficking; mandatory sentences; suspension or
130 reduction of sentences; conspiracy to engage in trafficking.—

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

133 (c)1. A person who knowingly sells, purchases,
134 manufactures, delivers, or brings into this state, or who is
135 knowingly in actual or constructive possession of, 4 grams or
136 more of any morphine, opium, hydromorphone, or any salt,
137 derivative, isomer, or salt of an isomer thereof, including
138 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
139 (3)(c)4., or 4 grams or more of any mixture containing any such
140 substance, but less than 30 kilograms of such substance or
141 mixture, commits a felony of the first degree, which felony
142 shall be known as "trafficking in illegal drugs," punishable as
143 provided in s. 775.082, s. 775.083, or s. 775.084. If the
144 quantity involved:

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

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

151 c. Is 28 grams or more, but less than 30 kilograms, such
152 person shall be sentenced to a mandatory minimum term of
153 imprisonment of 25 years and shall be ordered to pay a fine of
154 \$500,000.

155 2. A person who knowingly sells, purchases, manufactures,
156 delivers, or brings into this state, or who is knowingly in



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157 actual or constructive possession of, 28 grams or more of
158 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as
159 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28
160 grams or more of any mixture containing any such substance,
161 commits a felony of the first degree, which felony shall be
162 known as "trafficking in hydrocodone," punishable as provided in
163 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

167 b. Is 50 grams or more, but less than 100 grams, such
168 person shall be sentenced to a mandatory minimum term of
169 imprisonment of 7 years and shall be ordered to pay a fine of
170 \$100,000.

171 c. Is 100 grams or more, but less than 300 grams, such
172 person shall be sentenced to a mandatory minimum term of
173 imprisonment of 15 years and shall be ordered to pay a fine of
174 \$500,000.

175 d. Is 300 grams or more, but less than 30 kilograms, such
176 person shall be sentenced to a mandatory minimum term of
177 imprisonment of 25 years and shall be ordered to pay a fine of
178 \$750,000.

179 3. A person who knowingly sells, purchases, manufactures,
180 delivers, or brings into this state, or who is knowingly in
181 actual or constructive possession of, 7 grams or more of
182 oxycodone, as described in s. 893.03(2)(a)1.q., or any salt
183 thereof, or 7 grams or more of any mixture containing any such
184 substance, commits a felony of the first degree, which felony
185 shall be known as "trafficking in oxycodone," punishable as



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186 provided in s. 775.082, s. 775.083, or s. 775.084. If the
187 quantity involved:

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

191 b. Is 14 grams or more, but less than 25 grams, such person
192 shall be sentenced to a mandatory minimum term of imprisonment
193 of 7 years and shall be ordered to pay a fine of \$100,000.

194 c. Is 25 grams or more, but less than 100 grams, such
195 person shall be sentenced to a mandatory minimum term of
196 imprisonment of 15 years and shall be ordered to pay a fine of
197 \$500,000.

198 d. Is 100 grams or more, but less than 30 kilograms, such
199 person shall be sentenced to a mandatory minimum term of
200 imprisonment of 25 years and shall be ordered to pay a fine of
201 \$750,000.

202 4.a. A person who knowingly sells, purchases, manufactures,
203 delivers, or brings into this state, or who is knowingly in
204 actual or constructive possession of, 4 grams or more of:

205 (I) Alfentanil, as described in s. 893.03(2)(b)1.;

206 (II) Carfentanil, as described in s. 893.03(2)(b)6.;

207 (III) Fentanyl, as described in s. 893.03(2)(b)9.;

208 (IV) Sufentanil, as described in s. 893.03(2)(b)30.;

209 (V) A fentanyl derivative, as described in s.

210 893.03(1)(a)62.;

211 (VI) A controlled substance analog, as described in s.
212 893.0356, of any substance described in sub-sub-subparagraphs

213 (I)-(V); or

214 (VII) A mixture containing any substance described in sub-



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215 sub-subparagraphs (I)-(VI),
216
217 commits a felony of the first degree, which felony shall be
218 known as "trafficking in dangerous fentanyl or fentanyl
219 analogues," punishable as provided in s. 775.082, s. 775.083, or
220 s. 775.084.

221 b. If the quantity involved under sub-subparagraph a.:

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

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

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

232 5. A person who knowingly sells, purchases, manufactures,
233 delivers, or brings into this state, or who is knowingly in
234 actual or constructive possession of, 30 kilograms or more of
235 any morphine, opium, oxycodone, hydrocodone, codeine,
236 hydromorphone, or any salt, derivative, isomer, or salt of an
237 isomer thereof, including heroin, as described in s.
238 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
239 more of any mixture containing any such substance, commits the
240 first degree felony of trafficking in illegal drugs. A person
241 who has been convicted of the first degree felony of trafficking
242 in illegal drugs under this subparagraph shall be punished by
243 life imprisonment and is ineligible for any form of



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244 discretionary early release except pardon or executive clemency
245 or conditional medical release under s. 947.149. However, if the
246 court determines that, in addition to committing any act
247 specified in this paragraph:

248 a. The person intentionally killed an individual or
249 counseled, commanded, induced, procured, or caused the
250 intentional killing of an individual and such killing was the
251 result; or

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

254
255 such person commits the capital felony of trafficking in illegal
256 drugs, punishable as provided in ss. 775.082 and 921.142. A
257 person sentenced for a capital felony under this paragraph shall
258 also be sentenced to pay the maximum fine provided under
259 subparagraph 1.

260 6. A person who knowingly brings into this state 60
261 kilograms or more of any morphine, opium, oxycodone,
262 hydrocodone, codeine, hydromorphone, or any salt, derivative,
263 isomer, or salt of an isomer thereof, including heroin, as
264 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
265 60 kilograms or more of any mixture containing any such
266 substance, and who knows that the probable result of such
267 importation would be the death of a person, commits capital
268 importation of illegal drugs, a capital felony punishable as
269 provided in ss. 775.082 and 921.142. A person sentenced for a
270 capital felony under this paragraph shall also be sentenced to
271 pay the maximum fine provided under subparagraph 1.

272 Section 4. Subsection (4) of section 893.145, Florida



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273 Statutes, is amended to read:

274 893.145 "Drug paraphernalia" defined.—The term "drug
275 paraphernalia" means all equipment, products, and materials of
276 any kind which are used, intended for use, or designed for use
277 in planting, propagating, cultivating, growing, harvesting,
278 manufacturing, compounding, converting, producing, processing,
279 preparing, testing, analyzing, packaging, repackaging, storing,
280 containing, concealing, transporting, injecting, ingesting,
281 inhaling, or otherwise introducing into the human body a
282 controlled substance in violation of this chapter or s. 877.111.
283 Drug paraphernalia is deemed to be contraband which shall be
284 subject to civil forfeiture. The term includes, but is not
285 limited to:

286 (4) Testing equipment used, intended for use, or designed
287 for use in identifying, or in analyzing the strength,
288 effectiveness, or purity of, controlled substances, excluding
289 narcotic drug testing products that are used to determine
290 whether a controlled substance contains fentanyl as described in
291 s. 893.03(2)(b)9. or a controlled substance analog, as defined
292 in s. 893.0356, of fentanyl.

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

294
295 ===== T I T L E A M E N D M E N T =====

296 And the title is amended as follows:

297 Delete everything before the enacting clause
298 and insert:

299 A bill to be entitled
300 An act relating to controlled substances; amending s.
301 782.04, F.S.; revising the elements that constitute



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302 the capital offense of murder in the first degree;
303 revising the elements that constitute the felony
304 offense of murder in the third degree; amending s.
305 893.13, F.S.; prohibiting specified activities
306 involving controlled substances within 1,000 feet of
307 additional specified facilities; providing criminal
308 penalties; amending s. 893.135, F.S.; renaming what
309 the violation of specified offenses are known as from
310 "trafficking in fentanyl" to "trafficking in dangerous
311 fentanyl or fentanyl analogues"; increasing the
312 mandatory minimum terms of imprisonment for specified
313 offenses; amending s. 893.145, F.S.; revising the
314 definition of the term "drug paraphernalia"; providing
315 an effective date.