

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

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

13
 14 Section 1. Paragraph (a) of subsection (1) and paragraph
 15 (1) of subsection (4) of section 782.04, Florida Statutes, are
 16 amended, and subsection (6) is added to that section to read:

17 782.04 Murder.—

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

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

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

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

24 b. Arson,

25 c. Sexual battery,

- 26 d. Robbery,
- 27 e. Burglary,
- 28 f. Kidnapping,
- 29 g. Escape,
- 30 h. Aggravated child abuse,
- 31 i. Aggravated abuse of an elderly person or disabled
- 32 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
- 41 person,
- 42 q. Aggravated fleeing or eluding with serious bodily
- 43 injury or death,
- 44 r. Felony that is an act of terrorism or is in furtherance
- 45 of an act of terrorism, including a felony under s. 775.30, s.
- 46 775.32, s. 775.33, s. 775.34, or s. 775.35, or
- 47 s. Human trafficking; or
- 48 3. Which resulted from the unlawful distribution by a
- 49 person 18 years of age or older of any of the following
- 50 substances, or mixture containing any of the following

51 substances, when such substance or mixture is proven to have
 52 caused, or is proven to have been a substantial factor in
 53 producing, ~~be the proximate cause of~~ the death of the user:

- 54 a. A substance controlled under s. 893.03(1);
- 55 b. Cocaine, as described in s. 893.03(2)(a)4.;
- 56 c. Opium or any synthetic or natural salt, compound,
- 57 derivative, or preparation of opium;
- 58 d. Methadone;
- 59 e. Alfentanil, as described in s. 893.03(2)(b)1.;
- 60 f. Carfentanil, as described in s. 893.03(2)(b)6.;
- 61 g. Fentanyl, as described in s. 893.03(2)(b)9.;
- 62 h. Sufentanil, as described in s. 893.03(2)(b)30.; ~~or~~
- 63 i. Methamphetamine, as described in s. 893.03(2)(c)5.; or
- 64 j. A controlled substance analog, as described in s.
 65 893.0356, of any substance specified in sub-subparagraphs a.-i.
 66 ~~sub-subparagraphs a.-h.,~~

67

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

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

- 74 (1) 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 have caused, or is proven to have
 80 been a substantial factor in producing, ~~be the proximate cause~~
 81 ~~of~~ the death of the user,

82
 83 is murder in the third degree and constitutes a felony of the
 84 second degree, punishable as provided in s. 775.082, s. 775.083,
 85 or s. 775.084.

86 (6) As used in this section, the term "substantial factor"
 87 means that the use of the substance or mixture alone is
 88 sufficient to cause death, regardless of whether any other
 89 substance or mixture used is also sufficient to cause death.

90 Section 2. Paragraph (h) of subsection (1) of section
 91 893.13, Florida Statutes, is amended to read:

92 893.13 Prohibited acts; penalties.—

93 (1)

94 (h) Except as authorized by this chapter, a person may not
 95 sell, manufacture, or deliver, or possess with intent to sell,
 96 manufacture, or deliver, a controlled substance in, on, or
 97 within 1,000 feet of the real property comprising a mental
 98 health facility, as that term is used in chapter 394; a health
 99 care facility licensed under chapter 395 which provides
 100 substance abuse treatment; a licensed service provider as

101 defined in s. 397.311; a facility providing services that
102 include clinical treatment, intervention, or prevention as
103 described in s. 397.311(26); a recovery residence as defined in
104 s. 397.311; an assisted living facility, ~~as defined that term is~~
105 ~~used~~ in chapter 429; or a pain management clinic as defined in
106 s. 458.3265(1)(a)1.c. or s. 459.0137(1)(a)1.c. A person who
107 violates this paragraph with respect to:

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

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

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

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