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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/13/2023	.	
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The Committee on Fiscal Policy (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (1) and subsections
(4) and (5) 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



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



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40 substances, when such substance or mixture is proven to have
41 caused, or is proven to be a substantial factor in producing, be
42 the proximate cause of the death of the user:

- 43 a. A substance controlled under s. 893.03(1);
- 44 b. Cocaine, as described in s. 893.03(2)(a)4.;
- 45 c. Opium or any synthetic or natural salt, compound,
- 46 derivative, or preparation of opium;
- 47 d. Methadone;
- 48 e. Alfentanil, as described in s. 893.03(2)(b)1.;
- 49 f. Carfentanil, as described in s. 893.03(2)(b)6.;
- 50 g. Fentanyl, as described in s. 893.03(2)(b)9.;
- 51 h. Sufentanil, as described in s. 893.03(2)(b)30.;
- 52 i. Methamphetamine, as described in s. 893.03(2)(c)5.; or
- 53 j. A controlled substance analog, as described in s.
- 54 893.0356, of any substance specified in sub-subparagraphs a.-i.,
- 55

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

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

- 62 (a) Trafficking offense prohibited by s. 893.135(1),
- 63 (b) Arson,
- 64 (c) Sexual battery,
- 65 (d) Robbery,
- 66 (e) Burglary,
- 67 (f) Kidnapping,
- 68 (g) Escape,



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- 69 (h) Aggravated child abuse,
70 (i) Aggravated abuse of an elderly person or disabled
71 adult,
72 (j) Aircraft piracy,
73 (k) Unlawful throwing, placing, or discharging of a
74 destructive device or bomb,
75 (l) Unlawful distribution of any substance listed in sub-
76 subparagraphs (1)(a)3.a.-j. by a person 18 years of age or
77 older, when such substance is proven to have caused, or is
78 proven to have been a substantial factor in producing, be the
79 proximate cause of the death of the user,
80 (m) Carjacking,
81 (n) Home-invasion robbery,
82 (o) Aggravated stalking,
83 (p) Murder of another human being,
84 (q) Aggravated fleeing or eluding with serious bodily
85 injury or death,
86 (r) Resisting an officer with violence to his or her
87 person, or
88 (s) Felony that is an act of terrorism or is in furtherance
89 of an act of terrorism, including a felony under s. 775.30, s.
90 775.32, s. 775.33, s. 775.34, or s. 775.35,
91
92 is murder in the third degree and constitutes a felony of the
93 second degree, punishable as provided in s. 775.082, s. 775.083,
94 or s. 775.084.
95 (5) As used in this section, the term:
96 (a) "Substantial factor" means that the use of the
97 substance or mixture alone is sufficient to cause death,



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98 regardless of whether any other substance or mixture used is
99 also sufficient to cause death.

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

101 ~~(a)~~1.a. Involves a violent act or an act dangerous to human
102 life which is a violation of the criminal laws of this state or
103 of the United States; or

104 ~~b.2.~~ Involves a violation of s. 815.06; and

105 ~~2.(b)~~ Is intended to:

106 ~~a.1.~~ Intimidate, injure, or coerce a civilian population;

107 ~~b.2.~~ Influence the policy of a government by intimidation
108 or coercion; or

109 ~~c.3.~~ Affect the conduct of government through destruction
110 of property, assassination, murder, kidnapping, or aircraft
111 piracy.

112 Section 2. Section 893.131, Florida Statutes, is created to
113 read:

114 893.131 Distribution of controlled substances resulting in
115 injury or overdose.—

116 (1) As used in this section, the term:

117 (a) "Emergency opioid antagonist" has the same meaning as
118 in s. 381.887.

119 (b) "Injury or overdose" means drug toxicity or the
120 temporary loss of locomotor activity, motor coordination, or
121 consciousness or cognitive impairment.

122 (c) "Medical care" means the administration of treatment
123 for the purposes of preserving or sustaining life or the
124 administration of an emergency opioid antagonist.

125 (d) "Substantial factor" means that the use of a substance
126 or mixture alone is sufficient to cause an injury or overdose,



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127 regardless of whether any other substance or mixture used is
128 also sufficient to cause an injury or overdose.

129 (2) (a) Except as provided in paragraph (b), a person 18
130 years of age or older who unlawfully distributes:

131 1. Heroin, as described in s. 893.03(1)(b)11.;

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

133 3. Carfentanil, as described in s. 893.03(2)(b)6.;

134 4. Fentanyl, as described in s. 893.03(2)(b)9.;

135 5. Sufentanil, as described in s. 893.03(2)(b)30.;

136 6. Fentanyl derivatives, as described in s.

137 893.03(1)(a)62.;

138 7. A controlled substance analog, as described in s.

139 893.0356, of any substance specified in subparagraphs 1.-6.; or

140 8. A mixture containing any substance specified in
141 subparagraphs 1.-7.,

142
143 and an injury or overdose of the user results, commits a felony
144 of the second degree, punishable as provided in s. 775.082, s.
145 775.083, or s. 775.084, when such substance or mixture is proven
146 to have caused or been a substantial factor in causing the
147 injury or overdose of the user.

148 (b) A person 18 years of age or older who commits a
149 violation of paragraph (a) and who has previously been convicted
150 of a violation of paragraph (a) commits a felony of the first
151 degree, punishable as provided in s. 775.082, s. 775.083, or s.
152 775.084.

153 (3) A person violates this section if he or she, either
154 directly or indirectly through another person, distributed to
155 the user who was injured or who overdosed the substance or



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156 mixture specified in subparagraphs (2)(a)1.-8.

157 (4) The administration of medical care by an emergency
158 responder, including, but not limited to, a law enforcement
159 officer, a paramedic, or an emergency medical technician, or the
160 administration of an emergency opioid antagonist by such
161 emergency responder, is prima facie evidence that the person
162 receiving medical care was injured or overdosed.

163 Section 3. Paragraph (f) of subsection (3) of section
164 921.0022, Florida Statutes, is amended to read:

165 921.0022 Criminal Punishment Code; offense severity ranking
166 chart.—

167 (3) OFFENSE SEVERITY RANKING CHART

168 (f) LEVEL 6

169

Florida Statute	Felony Degree	Description
316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
499.0051(2)	2nd	Knowing forgery of transaction

170

171

172

173



history, transaction
information, or transaction
statement.

174

499.0051 (3) 2nd Knowing purchase or receipt of
prescription drug from
unauthorized person.

175

499.0051 (4) 2nd Knowing sale or transfer of
prescription drug to
unauthorized person.

176

775.0875 (1) 3rd Taking firearm from law
enforcement officer.

177

784.021 (1) (a) 3rd Aggravated assault; deadly
weapon without intent to kill.

178

784.021 (1) (b) 3rd Aggravated assault; intent to
commit felony.

179

784.041 3rd Felony battery; domestic
battery by strangulation.

180

784.048 (3) 3rd Aggravated stalking; credible
threat.

181

784.048 (5) 3rd Aggravated stalking of person
under 16.



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182	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
183	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
184	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
185	784.081(2)	2nd	Aggravated assault on specified official or employee.
186	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
187	784.083(2)	2nd	Aggravated assault on code inspector.
188	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
189	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
190	790.161(2)	2nd	Make, possess, or throw



destructive device with intent
to do bodily harm or damage
property.

191

790.164(1) 2nd False report concerning bomb,
 explosive, weapon of mass
 destruction, act of arson or
 violence to state property, or
 use of firearms in violent
 manner.

192

790.19 2nd Shooting or throwing deadly
 missiles into dwellings,
 vessels, or vehicles.

193

794.011(8)(a) 3rd Solicitation of minor to
 participate in sexual activity
 by custodial adult.

194

794.05(1) 2nd Unlawful sexual activity with
 specified minor.

195

800.04(5)(d) 3rd Lewd or lascivious molestation;
 victim 12 years of age or older
 but less than 16 years of age;
 offender less than 18 years.

196

800.04(6)(b) 2nd Lewd or lascivious conduct;
 offender 18 years of age or



older.

197

806.031(2) 2nd Arson resulting in great bodily
harm to firefighter or any
other person.

198

810.02(3)(c) 2nd Burglary of occupied structure;
unarmed; no assault or battery.

199

810.145(8)(b) 2nd Video voyeurism; certain minor
victims; 2nd or subsequent
offense.

200

812.014(2)(b)1. 2nd Property stolen \$20,000 or
more, but less than \$100,000,
grand theft in 2nd degree.

201

812.014(6) 2nd Theft; property stolen \$3,000
or more; coordination of
others.

202

812.015(9)(a) 2nd Retail theft; property stolen
\$750 or more; second or
subsequent conviction.

203

812.015(9)(b) 2nd Retail theft; aggregated
property stolen within 30 days
is \$3,000 or more; coordination
of others.



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204	812.015(9)(d)	2nd	Retail theft; multiple thefts within specified period.
205	812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
206	817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
207	817.49(2)(b)2.	2nd	Willful making of a false report of a crime resulting in death.
208	817.505(4)(b)	2nd	Patient brokering; 10 or more patients.
209	825.102(1)	3rd	Abuse of an elderly person or disabled adult.
210	825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
211	825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
212	825.103(3)(c)	3rd	Exploiting an elderly person or



disabled adult and property is
valued at less than \$10,000.

213

827.03(2)(c) 3rd Abuse of a child.

214

827.03(2)(d) 3rd Neglect of a child.

215

827.071(2) & (3) 2nd Use or induce a child in a
sexual performance, or promote
or direct such performance.

216

828.126(3) 3rd Sexual activities involving
animals.

217

836.05 2nd Threats; extortion.

218

836.10 2nd Written or electronic threats
to kill, do bodily injury, or
conduct a mass shooting or an
act of terrorism.

219

843.12 3rd Aids or assists person to
escape.

220

847.011 3rd Distributing, offering to
distribute, or possessing with
intent to distribute obscene
materials depicting minors.

221



222	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
223	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
224	<u>893.131(2)(a)</u>	<u>2nd</u>	<u>Distribution of controlled substances resulting in injury or overdose.</u>
225	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
226	918.13(2)(b)	2nd	Tampering with or fabricating physical evidence relating to a capital felony.
227	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
228	944.40	2nd	Escapes.



- 229 944.46 3rd Harboring, concealing, aiding
escaped prisoners.
- 230 944.47(1)(a)5. 2nd Introduction of contraband
(firearm, weapon, or explosive)
into correctional facility.
- 231 951.22(1)(i) 3rd Firearm or weapon introduced
into county detention facility.

232
233 Section 4. This act shall take effect July 1, 2023.

234
235 ===== T I T L E A M E N D M E N T =====

236 And the title is amended as follows:

237 Delete everything before the enacting clause
238 and insert:

239 A bill to be entitled
240 An act relating to controlled substances; amending s.
241 782.04, F.S.; revising the elements that constitute
242 the capital offense of murder in the first degree;
243 revising the elements that constitute the offense of
244 murder in the third degree and constitute a felony of
245 the second degree; defining the term "substantial
246 factor"; creating s. 893.131, F.S.; defining terms;
247 providing criminal penalties for adults who unlawfully
248 distribute specified substances or mixtures and an
249 injury or overdose of the user results; providing
250 enhanced criminal penalties for repeat offenders;



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251 providing construction; amending s. 921.0022, F.S.;

252 ranking an offense on the offense severity ranking

253 chart of the Criminal Punishment Code; providing an

254 effective date.