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LEGISLATIVE ACTION

Senate

.

House

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Floor: 1/F/2R

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05/02/2023 10:28 AM

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Senator Rouson moved the following:

Senate Amendment (with title amendment)

Delete lines 28 - 188

and insert:

the death of the person killed or any human being; or

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

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

b. Arson,

c. Sexual battery,

d. Robbery,



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- 12 e. Burglary,
13 f. Kidnapping,
14 g. Escape,
15 h. Aggravated child abuse,
16 i. Aggravated abuse of an elderly person or disabled adult,
17 j. Aircraft piracy,
18 k. Unlawful throwing, placing, or discharging of a
19 destructive device or bomb,
20 l. Carjacking,
21 m. Home-invasion robbery,
22 n. Aggravated stalking,
23 o. Murder of another human being,
24 p. Resisting an officer with violence to his or her person,
25 q. Aggravated fleeing or eluding with serious bodily injury
26 or death,
27 r. Felony that is an act of terrorism or is in furtherance
28 of an act of terrorism, including a felony under s. 775.30, s.
29 775.32, s. 775.33, s. 775.34, or s. 775.35, or
30 s. Human trafficking; ~~or~~
31 ~~3. Which resulted from the unlawful distribution by a~~
32 ~~person 18 years of age or older of any of the following~~
33 ~~substances, or mixture containing any of the following~~
34 ~~substances, when such substance or mixture is proven to be the~~
35 ~~proximate cause of the death of the user:~~
36 ~~a. A substance controlled under s. 893.03(1);~~
37 ~~b. Cocaine, as described in s. 893.03(2)(a)4.;~~
38 ~~e. Opium or any synthetic or natural salt, compound,~~
39 ~~derivative, or preparation of opium;~~
40 ~~d. Methadone;~~



41 ~~e. Alfentanil, as described in s. 893.03(2)(b)1.;~~
42 ~~f. Carfentanil, as described in s. 893.03(2)(b)6.;~~
43 ~~g. Fentanyl, as described in s. 893.03(2)(b)9.;~~
44 ~~h. Sufentanil, as described in s. 893.03(2)(b)30.;~~
45 ~~i. Methamphetamine, as described in s. 893.03(2)(c)5.; or~~
46 ~~j. A controlled substance analog, as described in s.~~
47 ~~893.0356, of any substance specified in sub-subparagraphs a. i.,~~
48

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

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

- 55 1. ~~(a)~~ Trafficking offense prohibited by s. 893.135(1),
- 56 2. ~~(b)~~ Arson,
- 57 3. ~~(c)~~ Sexual battery,
- 58 4. ~~(d)~~ Robbery,
- 59 5. ~~(e)~~ Burglary,
- 60 6. ~~(f)~~ Kidnapping,
- 61 7. ~~(g)~~ Escape,
- 62 8. ~~(h)~~ Aggravated child abuse,
- 63 9. ~~(i)~~ Aggravated abuse of an elderly person or disabled
64 adult,
- 65 10. ~~(j)~~ Aircraft piracy,
- 66 11. ~~(k)~~ Unlawful throwing, placing, or discharging of a
67 destructive device or bomb,

68 ~~(1) Unlawful distribution of any substance listed in sub-~~
69 ~~subparagraphs (1)(a)3.a.-j. by a person 18 years of age or~~



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70 ~~older, when such substance is proven to be the proximate cause~~
71 ~~of the death of the user,~~

72 12.~~(m)~~ Carjacking,

73 13.~~(n)~~ Home-invasion robbery,

74 14.~~(o)~~ Aggravated stalking,

75 15.~~(p)~~ Murder of another human being,

76 16.~~(q)~~ Aggravated fleeing or eluding with serious bodily
77 injury or death,

78 17.~~(r)~~ Resisting an officer with violence to his or her
79 person, or

80 18.~~(s)~~ Felony that is an act of terrorism or is in
81 furtherance of an act of terrorism, including a felony under s.
82 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35, or

83 (b) The unlawful killing of a human being which resulted
84 from the unlawful distribution by a person 18 years of age or
85 older of any of the following substances, or mixture containing
86 any of the following substances, when such substance or mixture
87 is proven to be the proximate cause of the death of the user:

88 a. A substance controlled under s. 893.03(1);

89 b. Cocaine, as described in s. 893.03(2)(a)4.;

90 c. Opium or any synthetic or natural salt, compound,
91 derivative, or preparation of opium;

92 d. Methadone;

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

94 f. Carfentanil, as described in s. 893.03(2)(b)6.;

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

96 h. Sufentanil, as described in s. 893.03(2)(b)30.;

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

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



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99 893.0356, of any substance specified in sub-subparagraphs a.-i.,
100
101 is murder in the third degree and constitutes a felony of the
102 second degree, punishable as provided in s. 775.082, s. 775.083,
103 or s. 775.084. A person convicted under this paragraph must be
104 sentenced to a mandatory minimum term of imprisonment of 4
105 years.

106 (5) As used in this section, the term:

107 (a) "Substantial factor" means that the use of the
108 substance or mixture alone is sufficient to cause death,
109 regardless of whether any other substance or mixture used is
110 also sufficient to cause death.

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

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

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

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

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

118 ~~b.2.~~ Influence the policy of a government by intimidation
119 or coercion; or

120 ~~c.3.~~ Affect the conduct of government through destruction
121 of property, assassination, murder, kidnapping, or aircraft
122 piracy.

123 Section 2. Section 893.131, Florida Statutes, is created to
124 read:

125 893.131 Distribution of controlled substances resulting in
126 overdose or serious bodily injury.-

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



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128 (a) "Distribute" has the same meaning as in s. 893.02, and
129 includes the direct or indirect delivery of a controlled
130 substance to a user.

131 (b) "Emergency opioid antagonist" has the same meaning as
132 in s. 381.887(1).

133 (c) "Medical care" means the administration of treatment
134 for the purposes of preserving or sustaining life or the
135 administration of an emergency opioid antagonist.

136 (d) "Overdose or serious bodily injury" means drug toxicity
137 or a physical condition that creates a substantial risk of death
138 or substantial loss or impairment of the function of any bodily
139 member or organ.

140 (e) "Substantial factor" means that the use of a substance
141 or mixture alone is sufficient to cause an overdose or serious
142 bodily injury, regardless of whether any other substance or
143 mixture used is also sufficient to cause an overdose or serious
144 bodily injury.

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

- 147 1. Heroin, as described in s. 893.03(1)(b)11.;
148 2. Alfentanil, as described in s. 893.03(2)(b)1.;
149 3. Carfentanil, as described in s. 893.03(2)(b)6.;
150 4. Fentanyl, as described in s. 893.03(2)(b)9.;
151 5. Sufentanil, as described in s. 893.03(2)(b)30.;
152 6. Fentanyl derivatives, as described in s.

153 893.03(1)(a)62.;

154 7. A controlled substance analog, as described in s.
155 893.0356, of any substance specified in subparagraphs 1.-6.; or

156 8. A mixture containing any substance specified in



157 subparagraphs 1.-7.,
158
159 and an overdose or serious bodily injury of the user results,
160 commits a felony of the second degree, punishable as provided in
161 s. 775.082, s. 775.083, or s. 775.084, when such substance or
162 mixture is proven to have caused or been a substantial factor in
163 causing the overdose or serious bodily injury of the user.

164 (b) A person 18 years of age or older who commits a
165 violation of paragraph (a) and who has previously been convicted
166 of a violation of paragraph (a) commits a felony of the first
167 degree, punishable as provided in s. 775.082, s. 775.083, or s.
168 775.084.

169 (3) The administration of medical care by an emergency
170 responder, including, but not limited to, a law enforcement
171 officer, a paramedic, or an emergency medical technician is
172 prima facie evidence that the person receiving medical care
173 experienced an overdose or serious bodily injury.

174 Section 3. Subsections (1) and (2) of section 893.21,
175 Florida Statutes, is amended to read:

176 893.21 Alcohol-related or drug-related overdoses; medical
177 assistance; immunity from arrest, charge, prosecution, and
178 penalization.—

179 (1) A person acting in good faith who seeks medical
180 assistance for an individual experiencing, or believed to be
181 experiencing, an alcohol-related or a drug-related overdose may
182 not be arrested, charged, prosecuted, or penalized for a
183 violation of s. 782.04(4)(b); s. 893.131; s. 893.147(1) or s.
184 893.13(6), excluding paragraph (c), if the evidence for such
185 offense was obtained as a result of the person's seeking medical



186 assistance.

187 (2) A person who experiences, or has a good faith belief
188 that he or she is experiencing, an alcohol-related or a drug-
189 related overdose and is in need of medical assistance may not be
190 arrested, charged, prosecuted, or penalized for a violation of
191 s. 782.04(4)(b); s. 893.131; s. 893.147(1) or s. 893.13(6),
192 excluding paragraph (c), if the evidence for such offense was
193 obtained as a result of the person's seeking medical assistance.

194
195 ===== T I T L E A M E N D M E N T =====

196 And the title is amended as follows:

197 Delete lines 7 - 15

198 and insert:

199 the second degree; requiring mandatory minimum terms
200 of imprisonment for specified convictions; defining
201 the term "substantial factor"; creating s. 893.131,
202 F.S.; providing definitions; providing criminal
203 penalties for adults who unlawfully distribute
204 specified substances or mixtures and an overdose or
205 serious bodily injury of the user results; providing
206 enhanced criminal penalties for repeat offenders;
207 providing construction; amending s. 893.21, F.S.;
208 providing that specified persons have certain
209 protections from arrest and prosecution under
210 specified circumstances;