

ENROLLED

CS/CS/HB 365

2023 Legislature

1
 2 An act relating to controlled substances; amending s.
 3 782.04, F.S.; revising the elements that constitute
 4 the capital offense of murder in the first degree;
 5 revising the elements that constitute the offense of
 6 murder in the third degree and constitute a felony of
 7 the second degree; defining the term "substantial
 8 factor"; creating s. 893.131, F.S.; providing
 9 definitions; providing criminal penalties for adults
 10 who unlawfully distribute specified substances or
 11 mixtures and an overdose or serious bodily injury of
 12 the user results; providing enhanced criminal
 13 penalties for repeat offenders; providing
 14 construction; providing that specified persons have
 15 certain protections from arrest and prosecution;
 16 amending s. 921.0022, F.S.; ranking an offense on the
 17 offense severity ranking chart of the Criminal
 18 Punishment Code; providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Paragraph (a) of subsection (1) and subsections
 23 (4) and (5) of section 782.04, Florida Statutes, are amended to
 24 read:

25 782.04 Murder.—

ENROLLED

CS/CS/HB 365

2023 Legislature

- 26 (1) (a) The unlawful killing of a human being:
- 27 1. When perpetrated from a premeditated design to effect
- 28 the death of the person killed or any human being;
- 29 2. When committed by a person engaged in the perpetration
- 30 of, or in the attempt to perpetrate, any:
- 31 a. Trafficking offense prohibited by s. 893.135(1),
- 32 b. Arson,
- 33 c. Sexual battery,
- 34 d. Robbery,
- 35 e. Burglary,
- 36 f. Kidnapping,
- 37 g. Escape,
- 38 h. Aggravated child abuse,
- 39 i. Aggravated abuse of an elderly person or disabled
- 40 adult,
- 41 j. Aircraft piracy,
- 42 k. Unlawful throwing, placing, or discharging of a
- 43 destructive device or bomb,
- 44 l. Carjacking,
- 45 m. Home-invasion robbery,
- 46 n. Aggravated stalking,
- 47 o. Murder of another human being,
- 48 p. Resisting an officer with violence to his or her
- 49 person,
- 50 q. Aggravated fleeing or eluding with serious bodily

ENROLLED

CS/CS/HB 365

2023 Legislature

51 injury or death,
 52 r. Felony that is an act of terrorism or is in furtherance
 53 of an act of terrorism, including a felony under s. 775.30, s.
 54 775.32, s. 775.33, s. 775.34, or s. 775.35, or
 55 s. Human trafficking; or
 56 3. Which resulted from the unlawful distribution by a
 57 person 18 years of age or older of any of the following
 58 substances, or mixture containing any of the following
 59 substances, when such substance or mixture is proven to have
 60 caused, or is proven to have been a substantial factor in
 61 producing, ~~be the proximate cause of~~ the death of the user:
 62 a. A substance controlled under s. 893.03(1);
 63 b. Cocaine, as described in s. 893.03(2)(a)4.;
 64 c. Opium or any synthetic or natural salt, compound,
 65 derivative, or preparation of opium;
 66 d. Methadone;
 67 e. Alfentanil, as described in s. 893.03(2)(b)1.;
 68 f. Carfentanil, as described in s. 893.03(2)(b)6.;
 69 g. Fentanyl, as described in s. 893.03(2)(b)9.;
 70 h. Sufentanil, as described in s. 893.03(2)(b)30.;
 71 i. Methamphetamine, as described in s. 893.03(2)(c)5.; or
 72 j. A controlled substance analog, as described in s.
 73 893.0356, of any substance specified in sub-subparagraphs a.-i.,
 74
 75 is murder in the first degree and constitutes a capital felony,

ENROLLED

CS/CS/HB 365

2023 Legislature

76 | punishable as provided in s. 775.082.

77 | (4) The unlawful killing of a human being, when
78 | perpetrated without any design to effect death, by a person
79 | engaged in the perpetration of, or in the attempt to perpetrate,
80 | any felony other than any:

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

82 | (b) Arson,

83 | (c) Sexual battery,

84 | (d) Robbery,

85 | (e) Burglary,

86 | (f) Kidnapping,

87 | (g) Escape,

88 | (h) Aggravated child abuse,

89 | (i) Aggravated abuse of an elderly person or disabled
90 | adult,

91 | (j) Aircraft piracy,

92 | (k) Unlawful throwing, placing, or discharging of a
93 | destructive device or bomb,

94 | (l) Unlawful distribution of any substance listed in sub-
95 | subparagraphs (1)(a)3.a.-j. by a person 18 years of age or
96 | older, when such substance is proven to have caused, or is
97 | proven to have been a substantial factor in producing, ~~be the~~
98 | ~~proximate cause of~~ the death of the user,

99 | (m) Carjacking,

100 | (n) Home-invasion robbery,

ENROLLED

CS/CS/HB 365

2023 Legislature

101 (o) Aggravated stalking,
 102 (p) Murder of another human being,
 103 (q) Aggravated fleeing or eluding with serious bodily
 104 injury or death,
 105 (r) Resisting an officer with violence to his or her
 106 person, or
 107 (s) Felony that is an act of terrorism or is in
 108 furtherance of an act of terrorism, including a felony under s.
 109 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35,
 110
 111 is murder in the third degree and constitutes a felony of the
 112 second degree, punishable as provided in s. 775.082, s. 775.083,
 113 or s. 775.084.
 114 (5) As used in this section, the term:
 115 (a) "Substantial factor" means that the use of the
 116 substance or mixture alone is sufficient to cause death,
 117 regardless of whether any other substance or mixture used is
 118 also sufficient to cause death.
 119 (b) "Terrorism" means an activity that:
 120 ~~(a)1.a.~~ a. Involves a violent act or an act dangerous to
 121 human life which is a violation of the criminal laws of this
 122 state or of the United States; or
 123 ~~b.2.~~ b. Involves a violation of s. 815.06; and
 124 ~~2.(b)~~ 2. Is intended to:
 125 ~~a.1.~~ a. Intimidate, injure, or coerce a civilian population;

ENROLLED

CS/CS/HB 365

2023 Legislature

126 ~~b.2.~~ Influence the policy of a government by intimidation
127 or coercion; or

128 ~~c.3.~~ Affect the conduct of government through destruction
129 of property, assassination, murder, kidnapping, or aircraft
130 piracy.

131 Section 2. Section 893.131, Florida Statutes, is created
132 to read:

133 893.131 Distribution of controlled substances resulting in
134 overdose or serious bodily injury.—

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

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

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

141 (c) "Medical care" means the administration of treatment
142 for the purposes of preserving or sustaining life or the
143 administration of an emergency opioid antagonist.

144 (d) "Overdose or serious bodily injury" means drug
145 toxicity or a physical condition that creates a substantial risk
146 of death or substantial loss or impairment of the function of
147 any bodily member or organ.

148 (e) "Substantial factor" means that the use of a substance
149 or mixture alone is sufficient to cause an overdose or serious
150 bodily injury, regardless of whether any other substance or

ENROLLED

CS/CS/HB 365

2023 Legislature

151 mixture used is also sufficient to cause an overdose or serious
 152 bodily injury.

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

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

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

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

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

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

160 6. Fentanyl derivatives, as described in s.

161 893.03(1)(a)62.;

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

163 893.0356, of any substance specified in subparagraphs 1.-6.; or

164 8. A mixture containing any substance specified in

165 subparagraphs 1.-7.,

166

167 and an overdose or serious bodily injury of the user results,

168 commits a felony of the second degree, punishable as provided in

169 s. 775.082, s. 775.083, or s. 775.084, when such substance or

170 mixture is proven to have caused or been a substantial factor in

171 causing the overdose or serious bodily injury of the user.

172 (b) A person 18 years of age or older who commits a

173 violation of paragraph (a) and who has previously been convicted

174 of a violation of paragraph (a) commits a felony of the first

175 degree, punishable as provided in s. 775.082, s. 775.083, or s.

ENROLLED

CS/CS/HB 365

2023 Legislature

176 775.084.

177 (3) The administration of medical care by an emergency
 178 responder, including, but not limited to, a law enforcement
 179 officer, a paramedic, or an emergency medical technician is
 180 prima facie evidence that the person receiving medical care
 181 experienced an overdose or serious bodily injury.

182 (4) A person who experiences, or has a good faith belief
 183 that he or she is experiencing, an alcohol-related or a drug-
 184 related overdose and receives medical assistance, or a person
 185 acting in good faith who seeks medical assistance for an
 186 individual experiencing, or believed to be experiencing, an
 187 alcohol-related or a drug-related overdose, is afforded the
 188 protections provided under s. 893.21.

189 Section 3. Paragraph (f) of subsection (3) of section
 190 921.0022, Florida Statutes, is amended to read:

191 921.0022 Criminal Punishment Code; offense severity
 192 ranking chart.—

193 (3) OFFENSE SEVERITY RANKING CHART

194 (f) LEVEL 6

195

Florida Statute	Felony Degree	Description
316.027 (2) (b)	2nd	Leaving the scene of a crash involving serious bodily

196

ENROLLED

CS/CS/HB 365

2023 Legislature

injury.

197

316.193 (2) (b) 3rd Felony DUI, 4th or subsequent conviction.

198

400.9935 (4) (c) 2nd Operating a clinic, or offering services requiring licensure, without a license.

199

499.0051 (2) 2nd Knowing forgery of transaction history, transaction information, or transaction statement.

200

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

201

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

202

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

203

ENROLLED

CS/CS/HB 365

2023 Legislature

204	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
205	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
206	784.041	3rd	Felony battery; domestic battery by strangulation.
207	784.048 (3)	3rd	Aggravated stalking; credible threat.
208	784.048 (5)	3rd	Aggravated stalking of person under 16.
209	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
210	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
211	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.

ENROLLED

CS/CS/HB 365

2023 Legislature

212	784.081 (2)	2nd	Aggravated assault on specified official or employee.
213	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
214	784.083 (2)	2nd	Aggravated assault on code inspector.
215	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
216	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
217	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
	790.164 (1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or

ENROLLED

CS/CS/HB 365

2023 Legislature

			violence to state property, or use of firearms in violent manner.
218	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
219	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
220	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
221	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.
222	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
223	806.031 (2)	2nd	Arson resulting in great bodily

ENROLLED

CS/CS/HB 365

2023 Legislature

harm to firefighter or any
other person.

224

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

225

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

226

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

227

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

228

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

229

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

ENROLLED

CS/CS/HB 365

2023 Legislature

of others.

230	812.015 (9) (d)	2nd	Retail theft; multiple thefts within specified period.
231	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
232	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
233	817.49 (2) (b) 2.	2nd	Willful making of a false report of a crime resulting in death.
234	817.505 (4) (b)	2nd	Patient brokering; 10 or more patients.
235	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
236	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
237			

ENROLLED

CS/CS/HB 365

2023 Legislature

238	825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
239	825.103(3)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
240	827.03(2)(c)	3rd	Abuse of a child.
241	827.03(2)(d)	3rd	Neglect of a child.
242	827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
243	828.126(3)	3rd	Sexual activities involving animals.
244	836.05	2nd	Threats; extortion.
	836.10	2nd	Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.

ENROLLED

CS/CS/HB 365

2023 Legislature

245	843.12	3rd	Aids or assists person to escape.
246	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
247	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
248	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
249	<u>893.131</u>	<u>2nd</u>	<u>Distribution of controlled substances resulting in overdose or serious bodily injury.</u>
250	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.

ENROLLED

CS/CS/HB 365

2023 Legislature

251 918.13(2)(b) 2nd Tampering with or fabricating
physical evidence relating to a
capital felony.

252 944.35(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.

253 944.40 2nd Escapes.

254 944.46 3rd Harboring, concealing, aiding
escaped prisoners.

255 944.47(1)(a)5. 2nd Introduction of contraband
(firearm, weapon, or explosive)
into correctional facility.

256 951.22(1)(i) 3rd Firearm or weapon introduced
into county detention facility.

257
258 Section 4. This act shall take effect July 1, 2023.