

26 capital felony is unconstitutional; repealing s.
27 913.13, F.S., relating to jurors in capital cases;
28 repealing s. 921.137, F.S., relating to prohibiting
29 the imposition of the death sentence upon a defendant
30 with an intellectual disability; repealing s. 921.141,
31 F.S., relating to determination of whether to impose a
32 sentence of death or life imprisonment for a capital
33 felony; repealing s. 921.142, F.S., relating to
34 determination of whether to impose a sentence of death
35 or life imprisonment for a capital drug trafficking
36 felony; amending ss. 775.021, 782.04, 775.30, 394.912,
37 782.065, 794.011, 893.135, 944.275, and 948.012, F.S.;
38 conforming provisions to changes made by the act;
39 repealing ss. 922.052, 922.06, 922.07, 922.08,
40 922.095, 922.10, 922.105, 922.108, 922.11, 922.111,
41 922.12, 922.14, 922.15, 924.055, 924.056, and 924.057,
42 F.S., relating to issuance of warrant of execution,
43 stay of execution of death sentence, proceedings when
44 a person under sentence of death appears to be insane,
45 proceedings when person under sentence of death
46 appears to be pregnant, pursuit of collateral
47 remedies, execution of death sentence, prohibition
48 against reduction of death sentence as a result of
49 determination that a method of execution is
50 unconstitutional, sentencing orders in capital cases,

51 regulation of execution, transfer to state prison for
52 safekeeping before death warrant issued, return of
53 warrant of execution issued by the Governor, sentence
54 of death unexecuted for unjustifiable reasons, return
55 of warrant of execution issued by the Supreme Court,
56 legislative intent concerning appeals and
57 postconviction proceedings in death penalty cases,
58 commencement of capital postconviction actions for
59 which sentence of death is imposed on or after January
60 14, 2000, and limitation on postconviction cases in
61 which the death sentence was imposed before January
62 14, 2000, respectively; amending s. 925.11, F.S.;
63 deleting provisions relating to preservation of DNA
64 evidence in death penalty cases; amending s. 945.10,
65 F.S.; deleting a public records exemption for the
66 identity of executioners; providing an effective date.

67
68 Be It Enacted by the Legislature of the State of Florida:

69
70 Section 1. Subsections (3) through (11) of section
71 775.082, Florida Statutes, are renumbered as subsections (2)
72 through (10), respectively, and paragraph (a) of subsection (1)
73 and present subsection (2) of that section are amended, to read:
74 775.082 Penalties; applicability of sentencing structures;
75 mandatory minimum sentences for certain reoffenders previously

76 released from prison.—

77 (1) (a) ~~Except as provided in paragraph (b),~~ A person who
 78 has been convicted of a capital felony shall be punished by
 79 death ~~if the proceeding held to determine sentence according to~~
 80 ~~the procedure set forth in s. 921.141 results in a determination~~
 81 ~~that such person shall be punished by death, otherwise such~~
 82 ~~person shall be punished by life imprisonment and shall be~~
 83 ineligible for parole.

84 ~~(2) In the event the death penalty in a capital felony is~~
 85 ~~held to be unconstitutional by the Florida Supreme Court or the~~
 86 ~~United States Supreme Court, the court having jurisdiction over~~
 87 ~~a person previously sentenced to death for a capital felony~~
 88 ~~shall cause such person to be brought before the court, and the~~
 89 ~~court shall sentence such person to life imprisonment as~~
 90 ~~provided in subsection (1). No sentence of death shall be~~
 91 ~~reduced as a result of a determination that a method of~~
 92 ~~execution is held to be unconstitutional under the State~~
 93 ~~Constitution or the Constitution of the United States.~~

94 Section 2. Paragraphs (d), (e), and (f) of subsection (1)
 95 of section 27.51, Florida Statutes, are amended to read:

96 27.51 Duties of public defender.—

97 (1) The public defender shall represent, without
 98 additional compensation, any person determined to be indigent
 99 under s. 27.52 and:

100 (d) Sought by petition filed in such court to be

101 involuntarily placed as a mentally ill person under part I of
102 chapter 394, involuntarily committed as a sexually violent
103 predator under part V of chapter 394, or involuntarily admitted
104 to residential services as a person with developmental
105 disabilities under chapter 393. A public defender shall not
106 represent any plaintiff in a civil action brought under the
107 Florida Rules of Civil Procedure, the Federal Rules of Civil
108 Procedure, or the federal statutes, or represent a petitioner in
109 a rule challenge under chapter 120, unless specifically
110 authorized by statute; or

111 ~~(e) Convicted and sentenced to death, for purposes of~~
112 ~~handling an appeal to the Supreme Court; or~~

113 (e) ~~(f)~~ Is appealing a matter in a case arising under
114 paragraphs (a)-(d).

115 Section 3. Paragraphs (e), (f), and (g) of subsection (5)
116 and subsection (8) of section 27.511, Florida Statutes, are
117 amended to read:

118 27.511 Offices of criminal conflict and civil regional
119 counsel; legislative intent; qualifications; appointment;
120 duties.—

121 (5) When the Office of the Public Defender, at any time
122 during the representation of two or more defendants, determines
123 that the interests of those accused are so adverse or hostile
124 that they cannot all be counseled by the public defender or his
125 or her staff without a conflict of interest, or that none can be

126 counseled by the public defender or his or her staff because of
 127 a conflict of interest, and the court grants the public
 128 defender's motion to withdraw, the office of criminal conflict
 129 and civil regional counsel shall be appointed and shall provide
 130 legal services, without additional compensation, to any person
 131 determined to be indigent under s. 27.52, who is:

132 ~~(e) Convicted and sentenced to death, for purposes of~~
 133 ~~handling an appeal to the Supreme Court;~~

134 (e) ~~(f)~~ Appealing a matter in a case arising under
 135 paragraphs (a)-(d); or

136 (f) ~~(g)~~ Seeking correction, reduction, or modification of a
 137 sentence under Rule 3.800, Florida Rules of Criminal Procedure,
 138 or seeking postconviction relief under Rule 3.850, Florida Rules
 139 of Criminal Procedure, if, in either case, the court determines
 140 that appointment of counsel is necessary to protect a person's
 141 due process rights.

142 (8) The public defender for the judicial circuit specified
 143 in s. 27.51(4) shall, after the record on appeal is transmitted
 144 to the appellate court by the office of criminal conflict and
 145 civil regional counsel which handled the trial and if requested
 146 by the regional counsel for the indicated appellate district,
 147 handle all circuit court and county court appeals authorized
 148 pursuant to paragraph (5)(e) ~~(5)(f)~~ within the state courts
 149 system and any authorized appeals to the federal courts required
 150 of the official making the request. If the public defender

151 certifies to the court that the public defender has a conflict
152 consistent with the criteria prescribed in s. 27.5303 and moves
153 to withdraw, the regional counsel shall handle the appeal,
154 unless the regional counsel has a conflict, in which case the
155 court shall appoint private counsel pursuant to s. 27.40.

156 Section 4. Subsection (13) of section 27.5304, Florida
157 Statutes, is amended to read:

158 27.5304 Private court-appointed counsel; compensation;
159 notice.—

160 (13) Notwithstanding the limitation set forth in
161 subsection (5) and for the 2020-2021 fiscal year only, the
162 compensation for representation in a criminal proceeding may not
163 exceed the following:

164 (a) For misdemeanors and juveniles represented at the
165 trial level: \$1,000.

166 (b) For noncapital, nonlife felonies represented at the
167 trial level: \$15,000.

168 (c) For life felonies represented at the trial level:
169 \$15,000.

170 ~~(d) For capital cases represented at the trial level:
171 \$25,000. For purposes of this paragraph, a "capital case" is any
172 offense for which the potential sentence is death and the state
173 has not waived seeking the death penalty.~~

174 (d)~~(e)~~ For representation on appeal: \$9,000.

175 (e)~~(f)~~ This subsection expires July 1, 2021.

176 Section 5. Sections 27.7001, 27.7002, 27.701, 27.702,
177 27.703, 27.704, 27.7045, 27.705, 27.706, 27.707, 27.708,
178 27.7081, 27.7091, 27.710, 27.711, and 27.715, Florida Statutes,
179 are repealed.

180 Section 6. Subsection (1) of section 23.21, Florida
181 Statutes, is amended to read:

182 23.21 Definitions.—For purposes of this part:

183 (1) "Department" means a principal administrative unit
184 within the executive branch of state government as defined in
185 chapter 20 and includes the State Board of Administration, the
186 Executive Office of the Governor, the Fish and Wildlife
187 Conservation Commission, the Florida Commission on Offender
188 Review, the Agency for Health Care Administration, the State
189 Board of Education, the Board of Governors of the State
190 University System, the Justice Administrative Commission, ~~the~~
191 ~~capital collateral regional counsel,~~ and separate budget
192 entities placed for administrative purposes within a department.

193 Section 7. Paragraph (a) of subsection (5) of section
194 27.51, Florida Statutes, is amended to read:

195 27.51 Duties of public defender.—

196 ~~(5) (a) When direct appellate proceedings prosecuted by a~~
197 ~~public defender on behalf of an accused and challenging a~~
198 ~~judgment of conviction and sentence of death terminate in an~~
199 ~~affirmance of such conviction and sentence, whether by the~~
200 ~~Florida Supreme Court or by the United States Supreme Court or~~

HB 6019

2021

201 ~~by expiration of any deadline for filing such appeal in a state~~
202 ~~or federal court, the public defender shall notify the accused~~
203 ~~of his or her rights pursuant to Rule 3.851, Florida Rules of~~
204 ~~Criminal Procedure, including any time limits pertinent thereto,~~
205 ~~and shall advise such person that representation in any~~
206 ~~collateral proceedings is the responsibility of the capital~~
207 ~~collateral regional counsel. The public defender shall then~~
208 ~~forward all original files on the matter to the capital~~
209 ~~collateral regional counsel, retaining such copies for his or~~
210 ~~her files as may be desired.~~

211 Section 8. Subsection (9) of section 27.511, Florida
212 Statutes, is amended to read:

213 27.511 Offices of criminal conflict and civil regional
214 counsel; legislative intent; qualifications; appointment;
215 duties.-

216 ~~(9) When direct appellate proceedings prosecuted by the~~
217 ~~office of criminal conflict and civil regional counsel on behalf~~
218 ~~of an accused and challenging a judgment of conviction and~~
219 ~~sentence of death terminate in an affirmance of such conviction~~
220 ~~and sentence, whether by the Supreme Court or by the United~~
221 ~~States Supreme Court or by expiration of any deadline for filing~~
222 ~~such appeal in a state or federal court, the office of criminal~~
223 ~~conflict and civil regional counsel shall notify the accused of~~
224 ~~his or her rights pursuant to Rule 3.851, Florida Rules of~~
225 ~~Criminal Procedure, including any time limits pertinent thereto,~~

226 | ~~and shall advise such person that representation in any~~
 227 | ~~collateral proceedings is the responsibility of the capital~~
 228 | ~~collateral regional counsel. The office of criminal conflict and~~
 229 | ~~civil regional counsel shall forward all original files on the~~
 230 | ~~matter to the capital collateral regional counsel, retaining~~
 231 | ~~such copies for his or her files as may be desired or required~~
 232 | ~~by law.~~

233 | Section 9. Paragraph (a) of subsection (5) and subsections
 234 | (6) and (7) of section 43.16, Florida Statutes, are amended to
 235 | read:

236 | 43.16 Justice Administrative Commission; membership,
 237 | powers and duties.—

238 | (5) The duties of the commission shall include, but not be
 239 | limited to, the following:

240 | (a) The maintenance of a central state office for
 241 | administrative services and assistance when possible to and on
 242 | behalf of the state attorneys and public defenders of Florida,
 243 | ~~the capital collateral regional counsel of Florida,~~ the criminal
 244 | conflict and civil regional counsel, and the Guardian Ad Litem
 245 | Program.

246 | (6) The commission, each state attorney, each public
 247 | defender, the criminal conflict and civil regional counsel, ~~the~~
 248 | ~~capital collateral regional counsel,~~ and the Guardian Ad Litem
 249 | Program shall establish and maintain internal controls designed
 250 | to:

251 (a) Prevent and detect fraud, waste, and abuse as defined
 252 in s. 11.45(1).

253 (b) Promote and encourage compliance with applicable laws,
 254 rules, contracts, grant agreements, and best practices.

255 (c) Support economical and efficient operations.

256 (d) Ensure reliability of financial records and reports.

257 (e) Safeguard assets.

258 (7) The provisions contained in this section shall be
 259 supplemental to those of chapter 27, relating to state
 260 attorneys, public defenders, and criminal conflict and civil
 261 regional counsel, ~~and capital collateral regional counsel~~; to
 262 those of chapter 39, relating to the Guardian Ad Litem Program;
 263 or to other laws pertaining hereto.

264 Section 10. Paragraph (e) of subsection (13) of section
 265 112.0455, Florida Statutes, is amended to read:

266 112.0455 Drug-Free Workplace Act.—

267 (13) RULES.—

268 (e) The Justice Administrative Commission may adopt rules
 269 on behalf of the state attorneys and public defenders of
 270 Florida, ~~the capital collateral regional counsel~~, and the
 271 Judicial Qualifications Commission.

272

273 This section shall not be construed to eliminate the bargainable
 274 rights as provided in the collective bargaining process where
 275 applicable.

HB 6019

2021

276 Section 11. Paragraph (d) of subsection (1) of section
277 119.071, Florida Statutes, is amended to read:

278 119.071 General exemptions from inspection or copying of
279 public records.—

280 (1) AGENCY ADMINISTRATION.—

281 (d)1. A public record that was prepared by an agency
282 attorney (including an attorney employed or retained by the
283 agency or employed or retained by another public officer or
284 agency to protect or represent the interests of the agency
285 having custody of the record) or prepared at the attorney's
286 express direction, that reflects a mental impression,
287 conclusion, litigation strategy, or legal theory of the attorney
288 or the agency, and that was prepared exclusively for civil or
289 criminal litigation or for adversarial administrative
290 proceedings, or that was prepared in anticipation of imminent
291 civil or criminal litigation or imminent adversarial
292 administrative proceedings, is exempt from s. 119.07(1) and s.
293 24(a), Art. I of the State Constitution until the conclusion of
294 the litigation or adversarial administrative proceedings. ~~For~~
295 ~~purposes of capital collateral litigation as set forth in s.~~
296 ~~27.7001, the Attorney General's office is entitled to claim this~~
297 ~~exemption for those public records prepared for direct appeal as~~
298 ~~well as for all capital collateral litigation after direct~~
299 ~~appeal until execution of sentence or imposition of a life~~
300 ~~sentence.~~

301 2. This exemption is not waived by the release of such
 302 public record to another public employee or officer of the same
 303 agency or any person consulted by the agency attorney. When
 304 asserting the right to withhold a public record pursuant to this
 305 paragraph, the agency shall identify the potential parties to
 306 any such criminal or civil litigation or adversarial
 307 administrative proceedings. If a court finds that the document
 308 or other record has been improperly withheld under this
 309 paragraph, the party seeking access to such document or record
 310 shall be awarded reasonable attorney's fees and costs in
 311 addition to any other remedy ordered by the court.

312 Section 12. Subsection (6) of section 186.003, Florida
 313 Statutes, is amended to read:

314 186.003 Definitions; ss. 186.001-186.031, 186.801-
 315 186.901.—As used in ss. 186.001-186.031 and 186.801-186.901, the
 316 term:

317 (6) "State agency" or "agency" means any official,
 318 officer, commission, board, authority, council, committee, or
 319 department of the executive branch of state government. For
 320 purposes of this chapter, "state agency" or "agency" includes
 321 state attorneys, public defenders, ~~the capital collateral~~
 322 ~~regional counsel,~~ the Justice Administrative Commission, and the
 323 Public Service Commission.

324 Section 13. Paragraph (b) of subsection (2) of section
 325 215.89, Florida Statutes, is amended to read:

326 215.89 Charts of account.—

327 (2) DEFINITIONS.—As used in this section, the term:

328 (b) "State agency" means an official, officer, commission,
 329 board, authority, council, committee, or department of the
 330 executive branch; a state attorney, public defender, or criminal
 331 conflict and civil regional counsel, ~~or capital collateral~~
 332 ~~regional counsel~~; the Florida Clerks of Court Operations
 333 Corporation; the Justice Administrative Commission; the Florida
 334 Housing Finance Corporation; the Florida Public Service
 335 Commission; the State Board of Administration; the Supreme Court
 336 or a district court of appeal, circuit court, or county court;
 337 or the Judicial Qualifications Commission.

338 Section 14. Paragraph (h) of subsection (14) of section
 339 215.985, Florida Statutes, is amended to read:

340 215.985 Transparency in government spending.—

341 (14) The Chief Financial Officer shall establish and
 342 maintain a secure contract tracking system available for viewing
 343 and downloading by the public through a secure website. The
 344 Chief Financial Officer shall use appropriate Internet security
 345 measures to ensure that no person has the ability to alter or
 346 modify records available on the website.

347 (h) For purposes of this subsection, the term:

348 1. "Procurement document" means any document or material
 349 provided to the public or any vendor as part of a formal
 350 competitive solicitation of goods or services undertaken by a

351 state entity, and a document or material submitted in response
 352 to a formal competitive solicitation by any vendor who is
 353 awarded the resulting contract.

354 2. "State entity" means an official, officer, commission,
 355 board, authority, council, committee, or department of the
 356 executive branch of state government; a state attorney, public
 357 defender, criminal conflict and civil regional counsel, ~~capital~~
 358 ~~collateral regional counsel~~, and the Justice Administrative
 359 Commission; the Public Service Commission; and any part of the
 360 judicial branch of state government.

361 Section 15. Paragraph (qq) of subsection (1) of section
 362 216.011, Florida Statutes, is amended to read:

363 216.011 Definitions.—

364 (1) For the purpose of fiscal affairs of the state,
 365 appropriations acts, legislative budgets, and approved budgets,
 366 each of the following terms has the meaning indicated:

367 (qq) "State agency" or "agency" means any official,
 368 officer, commission, board, authority, council, committee, or
 369 department of the executive branch of state government. For
 370 purposes of this chapter and chapter 215, "state agency" or
 371 "agency" includes, but is not limited to, state attorneys,
 372 public defenders, criminal conflict and civil regional counsel,
 373 ~~capital collateral regional counsel~~, the Justice Administrative
 374 Commission, the Florida Housing Finance Corporation, and the
 375 Florida Public Service Commission. Solely for the purposes of

376 implementing s. 19(h), Art. III of the State Constitution, the
 377 terms "state agency" or "agency" include the judicial branch.

378 Section 16. Paragraph (p) of subsection (3) of section
 379 790.25, Florida Statutes, is amended to read:

380 790.25 Lawful ownership, possession, and use of firearms
 381 and other weapons.—

382 (3) LAWFUL USES.—The provisions of ss. 790.053 and 790.06
 383 do not apply in the following instances, and, despite such
 384 sections, it is lawful for the following persons to own,
 385 possess, and lawfully use firearms and other weapons,
 386 ammunition, and supplies for lawful purposes:

387 ~~(p) Investigators employed by the capital collateral~~
 388 ~~regional counsel, while actually carrying out official duties,~~
 389 ~~provided such investigators:~~

- 390 ~~1. Are employed full time;~~
- 391 ~~2. Meet the official training standards for firearms as~~
 392 ~~established by the Criminal Justice Standards and Training~~
 393 ~~Commission as provided in s. 943.12(1) and the requirements of~~
 394 ~~ss. 493.6108(1)(a) and 943.13(1)-(4); and~~

395 ~~3. Are individually designated by an affidavit of consent~~
 396 ~~signed by the capital collateral regional counsel and filed with~~
 397 ~~the clerk of the circuit court in the county in which the~~
 398 ~~investigator is headquartered.~~

399 Section 17. Subsection (1) of section 775.15, Florida
 400 Statutes, is amended to read:

401 775.15 Time limitations; general time limitations;
 402 exceptions.—

403 (1) A prosecution for a capital felony, a life felony, or
 404 a felony that resulted in a death may be commenced at any time.
 405 ~~If the death penalty is held to be unconstitutional by the~~
 406 ~~Florida Supreme Court or the United States Supreme Court, all~~
 407 ~~crimes designated as capital felonies shall be considered life~~
 408 ~~felonies for the purposes of this section, and prosecution for~~
 409 ~~such crimes may be commenced at any time.~~

410 Section 18. Subsection (4) of section 790.161, Florida
 411 Statutes, is amended to read:

412 790.161 Making, possessing, throwing, projecting, placing,
 413 or discharging any destructive device or attempt so to do,
 414 felony; penalties.—A person who willfully and unlawfully makes,
 415 possesses, throws, projects, places, discharges, or attempts to
 416 make, possess, throw, project, place, or discharge any
 417 destructive device:

418 (4) If the act results in the death of another person,
 419 commits a capital felony, punishable as provided in s. 775.082.
 420 ~~In the event the death penalty in a capital felony is held to be~~
 421 ~~unconstitutional by the Florida Supreme Court or the United~~
 422 ~~States Supreme Court, the court having jurisdiction over a~~
 423 ~~person previously sentenced to death for a capital felony shall~~
 424 ~~cause such person to be brought before the court, and the court~~
 425 ~~shall sentence such person to life imprisonment if convicted of~~

426 ~~murder in the first degree or of a capital felony under this~~
427 ~~subsection, and such person shall be ineligible for parole. No~~
428 ~~sentence of death shall be reduced as a result of a~~
429 ~~determination that a method of execution is held to be~~
430 ~~unconstitutional under the State Constitution or the~~
431 ~~Constitution of the United States.~~

432 Section 19. Sections 913.13, 921.137, 921.141, and
433 921.142, Florida Statutes, are repealed.

434 Section 20. Paragraph (c) of subsection (5) of section
435 775.021, Florida Statutes, is amended to read:

436 775.021 Rules of construction.—

437 (5) Whoever commits an act that violates a provision of
438 this code or commits a criminal offense defined by another
439 statute and thereby causes the death of, or bodily injury to, an
440 unborn child commits a separate offense if the provision or
441 statute does not otherwise specifically provide a separate
442 offense for such death or injury to an unborn child.

443 ~~(c) Notwithstanding any other provision of law, the death~~
444 ~~penalty may not be imposed for an offense under this subsection.~~

445 Section 21. Subsection (1) of section 782.04, Florida
446 Statutes, is amended to read:

447 782.04 Murder.—

448 (1) ~~(a)~~ The unlawful killing of a human being:

449 (a)1. When perpetrated from a premeditated design to
450 effect the death of the person killed or any human being;

451 (b)2. When committed by a person engaged in the
 452 perpetration of, or in the attempt to perpetrate, any:

453 1.a. Trafficking offense prohibited by s. 893.135(1),
 454 2.b. Arson,
 455 3.e. Sexual battery,
 456 4.d. Robbery,
 457 5.e. Burglary,
 458 6.f. Kidnapping,
 459 7.g. Escape,
 460 8.h. Aggravated child abuse,
 461 9.i. Aggravated abuse of an elderly person or disabled
 462 adult,
 463 10.j. Aircraft piracy,
 464 11.k. Unlawful throwing, placing, or discharging of a
 465 destructive device or bomb,
 466 12.l. Carjacking,
 467 13.m. Home-invasion robbery,
 468 14.n. Aggravated stalking,
 469 15.o. Murder of another human being,
 470 16.p. Resisting an officer with violence to his or her
 471 person,
 472 17.q. Aggravated fleeing or eluding with serious bodily
 473 injury or death,
 474 18.r. Felony that is an act of terrorism or is in
 475 furtherance of an act of terrorism, including a felony under s.

476 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35, or
477 19.s. Human trafficking; or
478 (c)3. Which resulted from the unlawful distribution by a
479 person 18 years of age or older of any of the following
480 substances, or mixture containing any of the following
481 substances, when such substance or mixture is proven to be the
482 proximate cause of the death of the user:
483 1.a. A substance controlled under s. 893.03(1);
484 2.b. Cocaine, as described in s. 893.03(2)(a)4.;
485 3.e. Opium or any synthetic or natural salt, compound,
486 derivative, or preparation of opium;
487 4.d. Methadone;
488 5.e. Alfentanil, as described in s. 893.03(2)(b)1.;
489 6.f. Carfentanil, as described in s. 893.03(2)(b)6.;
490 7.g. Fentanyl, as described in s. 893.03(2)(b)9.;
491 8.h. Sufentanil, as described in s. 893.03(2)(b)30.; or
492 9.i. A controlled substance analog, as described in s.
493 893.0356, of any substance specified in paragraphs 1.-8. ~~sub-~~
494 ~~subparagraphs a.-h.~~,
495
496 is murder in the first degree and constitutes a capital felony,
497 punishable as provided in s. 775.082.
498 ~~(b) In all cases under this section, the procedure set~~
499 ~~forth in s. 921.141 shall be followed in order to determine~~
500 ~~sentence of death or life imprisonment. If the prosecutor~~

501 ~~intends to seek the death penalty, the prosecutor must give~~
 502 ~~notice to the defendant and file the notice with the court~~
 503 ~~within 45 days after arraignment. The notice must contain a list~~
 504 ~~of the aggravating factors the state intends to prove and has~~
 505 ~~reason to believe it can prove beyond a reasonable doubt. The~~
 506 ~~court may allow the prosecutor to amend the notice upon a~~
 507 ~~showing of good cause.~~

508 Section 22. Subsection (2) of section 775.30, Florida
 509 Statutes, is amended to read:

510 775.30 Terrorism; defined; penalties.—

511 (2) A person who violates s. 782.04(1)(a) ~~s.~~
 512 ~~782.04(1)(a)1.~~ or (2), s. 782.065, s. 782.07(1), s. 782.09, s.
 513 784.045, s. 784.07, s. 787.01, s. 787.02, s. 787.07, s. 790.115,
 514 s. 790.15, s. 790.16, s. 790.161, s. 790.1615, s. 790.162, s.
 515 790.166, s. 790.19, s. 806.01, s. 806.031, s. 806.111, s.
 516 815.06, s. 815.061, s. 859.01, or s. 876.34, in furtherance of
 517 intimidating or coercing the policy of a government, or in
 518 furtherance of affecting the conduct of a government by mass
 519 destruction, assassination, or kidnapping, commits the crime of
 520 terrorism, a felony of the first degree, punishable as provided
 521 in s. 775.082, s. 775.083, or s. 775.084.

522 Section 23. Paragraph (a) of subsection (9) of section
 523 394.912, Florida Statutes, is amended to read:

524 394.912 Definitions.—As used in this part, the term:

525 (9) "Sexually violent offense" means:

526 (a) Murder of a human being while engaged in sexual
 527 battery in violation of s. 782.04(1)(b) ~~s. 782.04(1)(a)2.~~;

528 Section 24. Subsection (1) of section 782.065, Florida
 529 Statutes, is amended to read:

530 782.065 Murder; law enforcement officer, correctional
 531 officer, correctional probation officer.—Notwithstanding ss.
 532 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant
 533 shall be sentenced to life imprisonment without eligibility for
 534 release upon findings by the trier of fact that, beyond a
 535 reasonable doubt:

536 (1) The defendant committed murder in the first degree in
 537 violation of s. 782.04(1) and a death sentence was not imposed;
 538 murder in the second or third degree in violation of s.
 539 782.04(2), (3), or (4); attempted murder in the first or second
 540 degree in violation of s. 782.04(1)(a) ~~s. 782.04(1)(a)1.~~ or (2);
 541 or attempted felony murder in violation of s. 782.051; and

542 Section 25. Paragraph (a) of subsection (2) of section
 543 794.011, Florida Statutes, is amended to read:

544 794.011 Sexual battery.—

545 (2)(a) A person 18 years of age or older who commits
 546 sexual battery upon, or in an attempt to commit sexual battery
 547 injures the sexual organs of, a person less than 12 years of age
 548 commits a capital felony, punishable as provided in s. 775.082
 549 ~~ss. 775.082 and 921.141.~~

550 Section 26. Paragraphs (b) through (l) and paragraph (n)

551 of subsection (1) of section 893.135, Florida Statutes, are
 552 amended to read:

553 893.135 Trafficking; mandatory sentences; suspension or
 554 reduction of sentences; conspiracy to engage in trafficking.—

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

557 (b)1. Any person who knowingly sells, purchases,
 558 manufactures, delivers, or brings into this state, or who is
 559 knowingly in actual or constructive possession of, 28 grams or
 560 more of cocaine, as described in s. 893.03(2)(a)4., or of any
 561 mixture containing cocaine, but less than 150 kilograms of
 562 cocaine or any such mixture, commits a felony of the first
 563 degree, which felony shall be known as "trafficking in cocaine,"
 564 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 565 If the quantity involved:

566 a. Is 28 grams or more, but less than 200 grams, such
 567 person shall be sentenced to a mandatory minimum term of
 568 imprisonment of 3 years, and the defendant shall be ordered to
 569 pay a fine of \$50,000.

570 b. Is 200 grams or more, but less than 400 grams, such
 571 person shall be sentenced to a mandatory minimum term of
 572 imprisonment of 7 years, and the defendant shall be ordered to
 573 pay a fine of \$100,000.

574 c. Is 400 grams or more, but less than 150 kilograms, such
 575 person shall be sentenced to a mandatory minimum term of

576 imprisonment of 15 calendar years and pay a fine of \$250,000.

577 2. Any person who knowingly sells, purchases,
 578 manufactures, delivers, or brings into this state, or who is
 579 knowingly in actual or constructive possession of, 150 kilograms
 580 or more of cocaine, as described in s. 893.03(2)(a)4., commits
 581 the first degree felony of trafficking in cocaine. A person who
 582 has been convicted of the first degree felony of trafficking in
 583 cocaine under this subparagraph shall be punished by life
 584 imprisonment and is ineligible for any form of discretionary
 585 early release except pardon or executive clemency or conditional
 586 medical release under s. 947.149. However, if the court
 587 determines that, in addition to committing any act specified in
 588 this paragraph:

589 a. The person intentionally killed an individual or
 590 counseled, commanded, induced, procured, or caused the
 591 intentional killing of an individual and such killing was the
 592 result; or

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

595
 596 such person commits the capital felony of trafficking in
 597 cocaine, punishable as provided in s. 775.082 ~~ss. 775.082 and~~
 598 ~~921.142~~. Any person sentenced for a capital felony under this
 599 paragraph shall also be sentenced to pay the maximum fine
 600 provided under subparagraph 1.

HB 6019

2021

601 3. Any person who knowingly brings into this state 300
602 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
603 and who knows that the probable result of such importation would
604 be the death of any person, commits capital importation of
605 cocaine, a capital felony punishable as provided in s. 775.082
606 ~~ss. 775.082 and 921.142~~. Any person sentenced for a capital
607 felony under this paragraph shall also be sentenced to pay the
608 maximum fine provided under subparagraph 1.

609 (c)1. A person who knowingly sells, purchases,
610 manufactures, delivers, or brings into this state, or who is
611 knowingly in actual or constructive possession of, 4 grams or
612 more of any morphine, opium, hydromorphone, or any salt,
613 derivative, isomer, or salt of an isomer thereof, including
614 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
615 (3)(c)4., or 4 grams or more of any mixture containing any such
616 substance, but less than 30 kilograms of such substance or
617 mixture, commits a felony of the first degree, which felony
618 shall be known as "trafficking in illegal drugs," punishable as
619 provided in s. 775.082, s. 775.083, or s. 775.084. If the
620 quantity involved:

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

624 b. Is 14 grams or more, but less than 28 grams, such
625 person shall be sentenced to a mandatory minimum term of

HB 6019

2021

626 imprisonment of 15 years and shall be ordered to pay a fine of
627 \$100,000.

628 c. Is 28 grams or more, but less than 30 kilograms, such
629 person shall be sentenced to a mandatory minimum term of
630 imprisonment of 25 years and shall be ordered to pay a fine of
631 \$500,000.

632 2. A person who knowingly sells, purchases, manufactures,
633 delivers, or brings into this state, or who is knowingly in
634 actual or constructive possession of, 28 grams or more of
635 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as
636 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28
637 grams or more of any mixture containing any such substance,
638 commits a felony of the first degree, which felony shall be
639 known as "trafficking in hydrocodone," punishable as provided in
640 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

641 a. Is 28 grams or more, but less than 50 grams, such
642 person shall be sentenced to a mandatory minimum term of
643 imprisonment of 3 years and shall be ordered to pay a fine of
644 \$50,000.

645 b. Is 50 grams or more, but less than 100 grams, such
646 person shall be sentenced to a mandatory minimum term of
647 imprisonment of 7 years and shall be ordered to pay a fine of
648 \$100,000.

649 c. Is 100 grams or more, but less than 300 grams, such
650 person shall be sentenced to a mandatory minimum term of

651 imprisonment of 15 years and shall be ordered to pay a fine of
652 \$500,000.

653 d. Is 300 grams or more, but less than 30 kilograms, such
654 person shall be sentenced to a mandatory minimum term of
655 imprisonment of 25 years and shall be ordered to pay a fine of
656 \$750,000.

657 3. A person who knowingly sells, purchases, manufactures,
658 delivers, or brings into this state, or who is knowingly in
659 actual or constructive possession of, 7 grams or more of
660 oxycodone, as described in s. 893.03(2)(a)1.q., or any salt
661 thereof, or 7 grams or more of any mixture containing any such
662 substance, commits a felony of the first degree, which felony
663 shall be known as "trafficking in oxycodone," punishable as
664 provided in s. 775.082, s. 775.083, or s. 775.084. If the
665 quantity involved:

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

669 b. Is 14 grams or more, but less than 25 grams, such
670 person shall be sentenced to a mandatory minimum term of
671 imprisonment of 7 years and shall be ordered to pay a fine of
672 \$100,000.

673 c. Is 25 grams or more, but less than 100 grams, such
674 person shall be sentenced to a mandatory minimum term of
675 imprisonment of 15 years and shall be ordered to pay a fine of

676 | \$500,000.

677 | d. Is 100 grams or more, but less than 30 kilograms, such
678 | person shall be sentenced to a mandatory minimum term of
679 | imprisonment of 25 years and shall be ordered to pay a fine of
680 | \$750,000.

681 | 4.a. A person who knowingly sells, purchases,
682 | manufactures, delivers, or brings into this state, or who is
683 | knowingly in actual or constructive possession of, 4 grams or
684 | more of:

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

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

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

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

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

690 | 893.03(1)(a)62.;

691 | (VI) A controlled substance analog, as described in s.

692 | 893.0356, of any substance described in sub-sub-subparagraphs

693 | (I)-(V); or

694 | (VII) A mixture containing any substance described in sub-
695 | sub-subparagraphs (I)-(VI),

696 |

697 | commits a felony of the first degree, which felony shall be

698 | known as "trafficking in fentanyl," punishable as provided in s.

699 | 775.082, s. 775.083, or s. 775.084.

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

701 (I) Is 4 grams or more, but less than 14 grams, such
 702 person shall be sentenced to a mandatory minimum term of
 703 imprisonment of 3 years, and shall be ordered to pay a fine of
 704 \$50,000.

705 (II) Is 14 grams or more, but less than 28 grams, such
 706 person shall be sentenced to a mandatory minimum term of
 707 imprisonment of 15 years, and shall be ordered to pay a fine of
 708 \$100,000.

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

712 5. A person who knowingly sells, purchases, manufactures,
 713 delivers, or brings into this state, or who is knowingly in
 714 actual or constructive possession of, 30 kilograms or more of
 715 any morphine, opium, oxycodone, hydrocodone, codeine,
 716 hydromorphone, or any salt, derivative, isomer, or salt of an
 717 isomer thereof, including heroin, as described in s.
 718 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
 719 more of any mixture containing any such substance, commits the
 720 first degree felony of trafficking in illegal drugs. A person
 721 who has been convicted of the first degree felony of trafficking
 722 in illegal drugs under this subparagraph shall be punished by
 723 life imprisonment and is ineligible for any form of
 724 discretionary early release except pardon or executive clemency
 725 or conditional medical release under s. 947.149. However, if the

726 court determines that, in addition to committing any act
727 specified in this paragraph:

728 a. The person intentionally killed an individual or
729 counseled, commanded, induced, procured, or caused the
730 intentional killing of an individual and such killing was the
731 result; or

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

734
735 such person commits the capital felony of trafficking in illegal
736 drugs, punishable as provided in s. 775.085 ~~ss. 775.082 and~~
737 ~~921.142~~. A person sentenced for a capital felony under this
738 paragraph shall also be sentenced to pay the maximum fine
739 provided under subparagraph 1.

740 6. A person who knowingly brings into this state 60
741 kilograms or more of any morphine, opium, oxycodone,
742 hydrocodone, codeine, hydromorphone, or any salt, derivative,
743 isomer, or salt of an isomer thereof, including heroin, as
744 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
745 60 kilograms or more of any mixture containing any such
746 substance, and who knows that the probable result of such
747 importation would be the death of a person, commits capital
748 importation of illegal drugs, a capital felony punishable as
749 provided in s. 775.082 ~~ss. 775.082 and 921.142~~. A person
750 sentenced for a capital felony under this paragraph shall also

751 be sentenced to pay the maximum fine provided under subparagraph
 752 1.

753 (d)1. Any person who knowingly sells, purchases,
 754 manufactures, delivers, or brings into this state, or who is
 755 knowingly in actual or constructive possession of, 28 grams or
 756 more of phencyclidine, as described in s. 893.03(2)(b)23., a
 757 substituted phenylcyclohexylamine, as described in s.
 758 893.03(1)(c)195., or a substance described in s.
 759 893.03(1)(c)13., 32., 38., 103., or 146., or of any mixture
 760 containing phencyclidine, as described in s. 893.03(2)(b)23., a
 761 substituted phenylcyclohexylamine, as described in s.
 762 893.03(1)(c)195., or a substance described in s.
 763 893.03(1)(c)13., 32., 38., 103., or 146., commits a felony of
 764 the first degree, which felony shall be known as "trafficking in
 765 phencyclidine," punishable as provided in s. 775.082, s.
 766 775.083, or s. 775.084. If the quantity involved:

767 a. Is 28 grams or more, but less than 200 grams, such
 768 person shall be sentenced to a mandatory minimum term of
 769 imprisonment of 3 years, and the defendant shall be ordered to
 770 pay a fine of \$50,000.

771 b. Is 200 grams or more, but less than 400 grams, such
 772 person shall be sentenced to a mandatory minimum term of
 773 imprisonment of 7 years, and the defendant shall be ordered to
 774 pay a fine of \$100,000.

775 c. Is 400 grams or more, such person shall be sentenced to

776 a mandatory minimum term of imprisonment of 15 calendar years
 777 and pay a fine of \$250,000.

778 2. Any person who knowingly brings into this state 800
 779 grams or more of phencyclidine, as described in s.
 780 893.03(2)(b)23., a substituted phenylcyclohexylamine, as
 781 described in s. 893.03(1)(c)195., or a substance described in s.
 782 893.03(1)(c)13., 32., 38., 103., or 146., or of any mixture
 783 containing phencyclidine, as described in s. 893.03(2)(b)23., a
 784 substituted phenylcyclohexylamine, as described in s.
 785 893.03(1)(c)195., or a substance described in s.
 786 893.03(1)(c)13., 32., 38., 103., or 146., and who knows that the
 787 probable result of such importation would be the death of any
 788 person commits capital importation of phencyclidine, a capital
 789 felony punishable as provided in s. 775.082 ~~ss. 775.082 and~~
 790 ~~921.142~~. Any person sentenced for a capital felony under this
 791 paragraph shall also be sentenced to pay the maximum fine
 792 provided under subparagraph 1.

793 (e)1. Any person who knowingly sells, purchases,
 794 manufactures, delivers, or brings into this state, or who is
 795 knowingly in actual or constructive possession of, 200 grams or
 796 more of methaqualone or of any mixture containing methaqualone,
 797 as described in s. 893.03(1)(d), commits a felony of the first
 798 degree, which felony shall be known as "trafficking in
 799 methaqualone," punishable as provided in s. 775.082, s. 775.083,
 800 or s. 775.084. If the quantity involved:

801 a. Is 200 grams or more, but less than 5 kilograms, such
 802 person shall be sentenced to a mandatory minimum term of
 803 imprisonment of 3 years, and the defendant shall be ordered to
 804 pay a fine of \$50,000.

805 b. Is 5 kilograms or more, but less than 25 kilograms,
 806 such person shall be sentenced to a mandatory minimum term of
 807 imprisonment of 7 years, and the defendant shall be ordered to
 808 pay a fine of \$100,000.

809 c. Is 25 kilograms or more, such person shall be sentenced
 810 to a mandatory minimum term of imprisonment of 15 calendar years
 811 and pay a fine of \$250,000.

812 2. Any person who knowingly brings into this state 50
 813 kilograms or more of methaqualone or of any mixture containing
 814 methaqualone, as described in s. 893.03(1)(d), and who knows
 815 that the probable result of such importation would be the death
 816 of any person commits capital importation of methaqualone, a
 817 capital felony punishable as provided in s. 775.082 ~~ss. 775.082~~
 818 ~~and 921.142~~. Any person sentenced for a capital felony under
 819 this paragraph shall also be sentenced to pay the maximum fine
 820 provided under subparagraph 1.

821 (f)1. Any person who knowingly sells, purchases,
 822 manufactures, delivers, or brings into this state, or who is
 823 knowingly in actual or constructive possession of, 14 grams or
 824 more of amphetamine, as described in s. 893.03(2)(c)2., or
 825 methamphetamine, as described in s. 893.03(2)(c)5., or of any

826 mixture containing amphetamine or methamphetamine, or
827 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
828 in conjunction with other chemicals and equipment utilized in
829 the manufacture of amphetamine or methamphetamine, commits a
830 felony of the first degree, which felony shall be known as
831 "trafficking in amphetamine," punishable as provided in s.
832 775.082, s. 775.083, or s. 775.084. If the quantity involved:
833 a. Is 14 grams or more, but less than 28 grams, such
834 person shall be sentenced to a mandatory minimum term of
835 imprisonment of 3 years, and the defendant shall be ordered to
836 pay a fine of \$50,000.
837 b. Is 28 grams or more, but less than 200 grams, such
838 person shall be sentenced to a mandatory minimum term of
839 imprisonment of 7 years, and the defendant shall be ordered to
840 pay a fine of \$100,000.
841 c. Is 200 grams or more, such person shall be sentenced to
842 a mandatory minimum term of imprisonment of 15 calendar years
843 and pay a fine of \$250,000.
844 2. Any person who knowingly manufactures or brings into
845 this state 400 grams or more of amphetamine, as described in s.
846 893.03(2)(c)2., or methamphetamine, as described in s.
847 893.03(2)(c)5., or of any mixture containing amphetamine or
848 methamphetamine, or phenylacetone, phenylacetic acid,
849 pseudoephedrine, or ephedrine in conjunction with other
850 chemicals and equipment used in the manufacture of amphetamine

HB 6019

2021

851 or methamphetamine, and who knows that the probable result of
852 such manufacture or importation would be the death of any person
853 commits capital manufacture or importation of amphetamine, a
854 capital felony punishable as provided in s. 775.082 ~~ss. 775.082~~
855 ~~and 921.142~~. Any person sentenced for a capital felony under
856 this paragraph shall also be sentenced to pay the maximum fine
857 provided under subparagraph 1.

858 (g)1. Any person who knowingly sells, purchases,
859 manufactures, delivers, or brings into this state, or who is
860 knowingly in actual or constructive possession of, 4 grams or
861 more of flunitrazepam or any mixture containing flunitrazepam as
862 described in s. 893.03(1)(a) commits a felony of the first
863 degree, which felony shall be known as "trafficking in
864 flunitrazepam," punishable as provided in s. 775.082, s.
865 775.083, or s. 775.084. If the quantity involved:

866 a. Is 4 grams or more but less than 14 grams, such person
867 shall be sentenced to a mandatory minimum term of imprisonment
868 of 3 years, and the defendant shall be ordered to pay a fine of
869 \$50,000.

870 b. Is 14 grams or more but less than 28 grams, such person
871 shall be sentenced to a mandatory minimum term of imprisonment
872 of 7 years, and the defendant shall be ordered to pay a fine of
873 \$100,000.

874 c. Is 28 grams or more but less than 30 kilograms, such
875 person shall be sentenced to a mandatory minimum term of

876 imprisonment of 25 calendar years and pay a fine of \$500,000.

877 2. Any person who knowingly sells, purchases,
 878 manufactures, delivers, or brings into this state or who is
 879 knowingly in actual or constructive possession of 30 kilograms
 880 or more of flunitrazepam or any mixture containing flunitrazepam
 881 as described in s. 893.03(1)(a) commits the first degree felony
 882 of trafficking in flunitrazepam. A person who has been convicted
 883 of the first degree felony of trafficking in flunitrazepam under
 884 this subparagraph shall be punished by life imprisonment and is
 885 ineligible for any form of discretionary early release except
 886 pardon or executive clemency or conditional medical release
 887 under s. 947.149. However, if the court determines that, in
 888 addition to committing any act specified in this paragraph:

889 a. The person intentionally killed an individual or
 890 counseled, commanded, induced, procured, or caused the
 891 intentional killing of an individual and such killing was the
 892 result; or

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

895
 896 such person commits the capital felony of trafficking in
 897 flunitrazepam, punishable as provided in s. 775.082 ~~ss. 775.082~~
 898 ~~and 921.142~~. Any person sentenced for a capital felony under
 899 this paragraph shall also be sentenced to pay the maximum fine
 900 provided under subparagraph 1.

901 (h)1. Any person who knowingly sells, purchases,
902 manufactures, delivers, or brings into this state, or who is
903 knowingly in actual or constructive possession of, 1 kilogram or
904 more of gamma-hydroxybutyric acid (GHB), as described in s.
905 893.03(1)(d), or any mixture containing gamma-hydroxybutyric
906 acid (GHB), commits a felony of the first degree, which felony
907 shall be known as "trafficking in gamma-hydroxybutyric acid
908 (GHB)," punishable as provided in s. 775.082, s. 775.083, or s.
909 775.084. If the quantity involved:

910 a. Is 1 kilogram or more but less than 5 kilograms, such
911 person shall be sentenced to a mandatory minimum term of
912 imprisonment of 3 years, and the defendant shall be ordered to
913 pay a fine of \$50,000.

914 b. Is 5 kilograms or more but less than 10 kilograms, such
915 person shall be sentenced to a mandatory minimum term of
916 imprisonment of 7 years, and the defendant shall be ordered to
917 pay a fine of \$100,000.

918 c. Is 10 kilograms or more, such person shall be sentenced
919 to a mandatory minimum term of imprisonment of 15 calendar years
920 and pay a fine of \$250,000.

921 2. Any person who knowingly manufactures or brings into
922 this state 150 kilograms or more of gamma-hydroxybutyric acid
923 (GHB), as described in s. 893.03(1)(d), or any mixture
924 containing gamma-hydroxybutyric acid (GHB), and who knows that
925 the probable result of such manufacture or importation would be

926 the death of any person commits capital manufacture or
927 importation of gamma-hydroxybutyric acid (GHB), a capital felony
928 punishable as provided in s. 775.082 ~~ss. 775.082 and 921.142~~.
929 Any person sentenced for a capital felony under this paragraph
930 shall also be sentenced to pay the maximum fine provided under
931 subparagraph 1.

932 (i)1. Any person who knowingly sells, purchases,
933 manufactures, delivers, or brings into this state, or who is
934 knowingly in actual or constructive possession of, 1 kilogram or
935 more of gamma-butyrolactone (GBL), as described in s.
936 893.03(1)(d), or any mixture containing gamma-butyrolactone
937 (GBL), commits a felony of the first degree, which felony shall
938 be known as "trafficking in gamma-butyrolactone (GBL),"
939 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
940 If the quantity involved:

941 a. Is 1 kilogram or more but less than 5 kilograms, such
942 person shall be sentenced to a mandatory minimum term of
943 imprisonment of 3 years, and the defendant shall be ordered to
944 pay a fine of \$50,000.

945 b. Is 5 kilograms or more but less than 10 kilograms, such
946 person shall be sentenced to a mandatory minimum term of
947 imprisonment of 7 years, and the defendant shall be ordered to
948 pay a fine of \$100,000.

949 c. Is 10 kilograms or more, such person shall be sentenced
950 to a mandatory minimum term of imprisonment of 15 calendar years

951 and pay a fine of \$250,000.

952 2. Any person who knowingly manufactures or brings into
953 the state 150 kilograms or more of gamma-butyrolactone (GBL), as
954 described in s. 893.03(1)(d), or any mixture containing gamma-
955 butyrolactone (GBL), and who knows that the probable result of
956 such manufacture or importation would be the death of any person
957 commits capital manufacture or importation of gamma-
958 butyrolactone (GBL), a capital felony punishable as provided in
959 s. 775.082 ~~ss. 775.082 and 921.142~~. Any person sentenced for a
960 capital felony under this paragraph shall also be sentenced to
961 pay the maximum fine provided under subparagraph 1.

962 (j)1. Any person who knowingly sells, purchases,
963 manufactures, delivers, or brings into this state, or who is
964 knowingly in actual or constructive possession of, 1 kilogram or
965 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of
966 any mixture containing 1,4-Butanediol, commits a felony of the
967 first degree, which felony shall be known as "trafficking in
968 1,4-Butanediol," punishable as provided in s. 775.082, s.
969 775.083, or s. 775.084. If the quantity involved:

970 a. Is 1 kilogram or more, but less than 5 kilograms, such
971 person shall be sentenced to a mandatory minimum term of
972 imprisonment of 3 years, and the defendant shall be ordered to
973 pay a fine of \$50,000.

974 b. Is 5 kilograms or more, but less than 10 kilograms,
975 such person shall be sentenced to a mandatory minimum term of

976 imprisonment of 7 years, and the defendant shall be ordered to
 977 pay a fine of \$100,000.

978 c. Is 10 kilograms or more, such person shall be sentenced
 979 to a mandatory minimum term of imprisonment of 15 calendar years
 980 and pay a fine of \$500,000.

981 2. Any person who knowingly manufactures or brings into
 982 this state 150 kilograms or more of 1,4-Butanediol as described
 983 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
 984 and who knows that the probable result of such manufacture or
 985 importation would be the death of any person commits capital
 986 manufacture or importation of 1,4-Butanediol, a capital felony
 987 punishable as provided in s. 775.082 ~~ss. 775.082 and 921.142~~.
 988 Any person sentenced for a capital felony under this paragraph
 989 shall also be sentenced to pay the maximum fine provided under
 990 subparagraph 1.

991 (k)1. A person who knowingly sells, purchases,
 992 manufactures, delivers, or brings into this state, or who is
 993 knowingly in actual or constructive possession of, 10 grams or
 994 more of a:

995 a. Substance described in s. 893.03(1)(c)4., 5., 10., 11.,
 996 15., 17., 21.-27., 29., 39., 40.-45., 58., 72.-80., 81.-86.,
 997 90.-102., 104.-108., 110.-113., 143.-145., 148.-150., 160.-163.,
 998 165., or 187.-189., a substituted cathinone, as described in s.
 999 893.03(1)(c)191., or substituted phenethylamine, as described in
 1000 s. 893.03(1)(c)192.;

1001 b. Mixture containing any substance described in sub-
 1002 subparagraph a.; or

1003 c. Salt, isomer, ester, or ether or salt of an isomer,
 1004 ester, or ether of a substance described in sub-subparagraph a.,
 1005
 1006 commits a felony of the first degree, which felony shall be
 1007 known as "trafficking in phenethylamines," punishable as
 1008 provided in s. 775.082, s. 775.083, or s. 775.084.

1009 2. If the quantity involved under subparagraph 1.:

1010 a. Is 10 grams or more, but less than 200 grams, such
 1011 person shall be sentenced to a mandatory minimum term of
 1012 imprisonment of 3 years and shall be ordered to pay a fine of
 1013 \$50,000.

1014 b. Is 200 grams or more, but less than 400 grams, such
 1015 person shall be sentenced to a mandatory minimum term of
 1016 imprisonment of 7 years and shall be ordered to pay a fine of
 1017 \$100,000.

1018 c. Is 400 grams or more, such person shall be sentenced to
 1019 a mandatory minimum term of imprisonment of 15 years and shall
 1020 be ordered to pay a fine of \$250,000.

1021 3. A person who knowingly manufactures or brings into this
 1022 state 30 kilograms or more of a substance described in sub-
 1023 subparagraph 1.a., a mixture described in sub-subparagraph 1.b.,
 1024 or a salt, isomer, ester, or ether or a salt of an isomer,
 1025 ester, or ether described in sub-subparagraph 1.c., and who

HB 6019

2021

1026 knows that the probable result of such manufacture or
1027 importation would be the death of any person commits capital
1028 manufacture or importation of phenethylamines, a capital felony
1029 punishable as provided in s. 775.082 ~~ss. 775.082 and 921.142~~. A
1030 person sentenced for a capital felony under this paragraph shall
1031 also be sentenced to pay the maximum fine under subparagraph 2.

1032 (1)1. Any person who knowingly sells, purchases,
1033 manufactures, delivers, or brings into this state, or who is
1034 knowingly in actual or constructive possession of, 1 gram or
1035 more of lysergic acid diethylamide (LSD) as described in s.
1036 893.03(1)(c), or of any mixture containing lysergic acid
1037 diethylamide (LSD), commits a felony of the first degree, which
1038 felony shall be known as "trafficking in lysergic acid
1039 diethylamide (LSD)," punishable as provided in s. 775.082, s.
1040 775.083, or s. 775.084. If the quantity involved:

1041 a. Is 1 gram or more, but less than 5 grams, such person
1042 shall be sentenced to a mandatory minimum term of imprisonment
1043 of 3 years, and the defendant shall be ordered to pay a fine of
1044 \$50,000.

1045 b. Is 5 grams or more, but less than 7 grams, such person
1046 shall be sentenced to a mandatory minimum term of imprisonment
1047 of 7 years, and the defendant shall be ordered to pay a fine of
1048 \$100,000.

1049 c. Is 7 grams or more, such person shall be sentenced to a
1050 mandatory minimum term of imprisonment of 15 calendar years and

1051 pay a fine of \$500,000.

1052 2. Any person who knowingly manufactures or brings into
 1053 this state 7 grams or more of lysergic acid diethylamide (LSD)
 1054 as described in s. 893.03(1)(c), or any mixture containing
 1055 lysergic acid diethylamide (LSD), and who knows that the
 1056 probable result of such manufacture or importation would be the
 1057 death of any person commits capital manufacture or importation
 1058 of lysergic acid diethylamide (LSD), a capital felony punishable
 1059 as provided in s. 775.082 ~~ss. 775.082 and 921.142~~. Any person
 1060 sentenced for a capital felony under this paragraph shall also
 1061 be sentenced to pay the maximum fine provided under subparagraph
 1062 1.

1063 (n)1. A person who knowingly sells, purchases,
 1064 manufactures, delivers, or brings into this state, or who is
 1065 knowingly in actual or constructive possession of, 14 grams or
 1066 more of:

1067 a. A substance described in s. 893.03(1)(c)164., 174., or
 1068 175., a n-benzyl phenethylamine compound, as described in s.
 1069 893.03(1)(c)193.; or

1070 b. A mixture containing any substance described in sub-
 1071 subparagraph a.,

1072
 1073 commits a felony of the first degree, which felony shall be
 1074 known as "trafficking in n-benzyl phenethylamines," punishable
 1075 as provided in s. 775.082, s. 775.083, or s. 775.084.

1076 2. If the quantity involved under subparagraph 1.:

1077 a. Is 14 grams or more, but less than 100 grams, such

1078 person shall be sentenced to a mandatory minimum term of

1079 imprisonment of 3 years, and the defendant shall be ordered to

1080 pay a fine of \$50,000.

1081 b. Is 100 grams or more, but less than 200 grams, such

1082 person shall be sentenced to a mandatory minimum term of

1083 imprisonment of 7 years, and the defendant shall be ordered to

1084 pay a fine of \$100,000.

1085 c. Is 200 grams or more, such person shall be sentenced to

1086 a mandatory minimum term of imprisonment of 15 years, and the

1087 defendant shall be ordered to pay a fine of \$500,000.

1088 3. A person who knowingly manufactures or brings into this

1089 state 400 grams or more of a substance described in sub-

1090 subparagraph 1.a. or a mixture described in sub-subparagraph

1091 1.b., and who knows that the probable result of such manufacture

1092 or importation would be the death of any person commits capital

1093 manufacture or importation of a n-benzyl phenethylamine

1094 compound, a capital felony punishable as provided in s. 775.082

1095 ~~ss. 775.082 and 921.142~~. A person sentenced for a capital felony

1096 under this paragraph shall also be sentenced to pay the maximum

1097 fine under subparagraph 2.

1098 Section 27. Paragraph (e) of subsection (4) of section

1099 944.275, Florida Statutes, is amended to read:

1100 944.275 Gain-time.—

1101 (4)
 1102 (e) Notwithstanding subparagraph (b)3., for sentences
 1103 imposed for offenses committed on or after October 1, 2014, the
 1104 department may not grant incentive gain-time if the offense is a
 1105 violation of s. 782.04(1)(b)3. ~~s. 782.04(1)(a)2.e.~~; s.
 1106 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011,
 1107 excluding s. 794.011(10); s. 800.04; s. 825.1025; or s.
 1108 847.0135(5).

1109 Section 28. Paragraph (a) of subsection (5) of section
 1110 948.012, Florida Statutes, is amended to read:

1111 948.012 Split sentence of probation or community control
 1112 and imprisonment.—

1113 (5)(a) Effective for offenses committed on or after
 1114 October 1, 2014, if the court imposes a term of years in
 1115 accordance with s. 775.082 which is less than the maximum
 1116 sentence for the offense, the court must impose a split sentence
 1117 pursuant to subsection (1) for any person who is convicted of a
 1118 violation of:

- 1119 1. Section 782.04(1)(b)3. ~~782.04(1)(a)2.e.~~;
- 1120 2. Section 787.01(3)(a)2. or 3.;
- 1121 3. Section 787.02(3)(a)2. or 3.;
- 1122 4. Section 794.011, excluding s. 794.011(10);
- 1123 5. Section 800.04;
- 1124 6. Section 825.1025; or
- 1125 7. Section 847.0135(5).

1126 Section 29. Sections 922.052, 922.06, 922.07, 922.08,
1127 922.095, 922.10, 922.105, 922.108, 922.11, 922.111, 922.12,
1128 922.14, 922.15, 924.055, 924.056, and 924.057, Florida Statutes,
1129 are repealed.

1130 Section 30. Subsection (4) of section 925.11, Florida
1131 Statutes, is amended to read:

1132 925.11 Postsentencing DNA testing.—

1133 (4) PRESERVATION OF EVIDENCE.—

1134 ~~(a)~~ Governmental entities that may be in possession of any
1135 physical evidence in the case, including, but not limited to,
1136 any investigating law enforcement agency, the clerk of the
1137 court, the prosecuting authority, or the Department of Law
1138 Enforcement shall maintain any physical evidence collected at
1139 the time of the crime for which a postsentencing testing of DNA
1140 may be requested.

1141 ~~(b) In a case in which the death penalty is imposed, the~~
1142 ~~evidence shall be maintained for 60 days after execution of the~~
1143 ~~sentence. In all other cases, a governmental entity may dispose~~
1144 ~~of the physical evidence if the term of the sentence imposed in~~
1145 ~~the case has expired and no other provision of law or rule~~
1146 ~~requires that the physical evidence be preserved or retained.~~

1147 Section 31. Paragraphs (g), (h), and (i) of subsection (1)
1148 and subsection (2) of section 945.10, Florida Statutes, are
1149 amended to read:

1150 945.10 Confidential information.—

HB 6019

2021

1151 (1) Except as otherwise provided by law or in this
1152 section, the following records and information held by the
1153 Department of Corrections are confidential and exempt from the
1154 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
1155 Constitution:

1156 ~~(g) Information which identifies an executioner, or any~~
1157 ~~person prescribing, preparing, compounding, dispensing, or~~
1158 ~~administering a lethal injection.~~

1159 (g) ~~(h)~~ The identity of any inmate or offender upon whom an
1160 HIV test has been performed and the inmate's or offender's test
1161 results, in accordance with s. 381.004. The term "HIV test" has
1162 the same meaning as provided in s. 381.004. This paragraph is
1163 subject to the Open Government Sunset Review Act of 1995 in
1164 accordance with s. 119.15 and shall stand repealed on October 2,
1165 2022, unless reviewed and saved from repeal through reenactment
1166 by the Legislature.

1167 (h) ~~(i)~~ Records that are otherwise confidential or exempt
1168 from public disclosure by law.

1169 (2) The records and information specified in paragraphs
1170 (1) (a) - (h) ~~(1) (a) - (i)~~ may be released as follows unless
1171 expressly prohibited by federal law:

1172 (a) Information specified in paragraphs (1) (b), (d), and
1173 (f) to the Executive Office of the Governor, the Legislature,
1174 the Florida Commission on Offender Review, the Department of
1175 Children and Families, a private correctional facility or

1176 program that operates under a contract, the Department of Legal
 1177 Affairs, a state attorney, the court, or a law enforcement
 1178 agency. A request for records or information pursuant to this
 1179 paragraph need not be in writing.

1180 (b) Information specified in paragraphs (1)(c), (e), and
 1181 (h) ~~(i)~~ to the Executive Office of the Governor, the
 1182 Legislature, the Florida Commission on Offender Review, the
 1183 Department of Children and Families, a private correctional
 1184 facility or program that operates under contract, the Department
 1185 of Legal Affairs, a state attorney, the court, or a law
 1186 enforcement agency. A request for records or information
 1187 pursuant to this paragraph must be in writing and a statement
 1188 provided demonstrating a need for the records or information.

1189 (c) Information specified in paragraph (1)(b) to an
 1190 attorney representing an inmate under sentence of death, except
 1191 those portions of the records containing a victim's statement or
 1192 address, or the statement or address of a relative of the
 1193 victim. A request for records of information pursuant to this
 1194 paragraph must be in writing and a statement provided
 1195 demonstrating a need for the records or information.

1196 (d) Information specified in paragraph (1)(b) to a public
 1197 defender representing a defendant, except those portions of the
 1198 records containing a victim's statement or address, or the
 1199 statement or address of a relative of the victim. A request for
 1200 records or information pursuant to this paragraph need not be in

1201 writing.

1202 (e) Information specified in paragraph (1)(b) to state or
 1203 local governmental agencies. A request for records or
 1204 information pursuant to this paragraph must be in writing and a
 1205 statement provided demonstrating a need for the records or
 1206 information.

1207 (f) Information specified in paragraph (1)(b) to a person
 1208 conducting legitimate research. A request for records and
 1209 information pursuant to this paragraph must be in writing, the
 1210 person requesting the records or information must sign a
 1211 confidentiality agreement, and the department must approve the
 1212 request in writing.

1213 (g) Protected health information and records specified in
 1214 paragraphs (1)(a) and (i) ~~(h)~~ to the Department of Health and
 1215 the county health department where an inmate plans to reside if
 1216 he or she has tested positive for the presence of the antibody
 1217 or antigen to human immunodeficiency virus infection or as
 1218 authorized in s. 381.004.

1219 (h) Protected health information and mental health,
 1220 medical, or substance abuse records specified in paragraph
 1221 (1)(a) to the Executive Office of the Governor, the Correctional
 1222 Medical Authority, and the Department of Health for health care
 1223 oversight activities authorized by state or federal law,
 1224 including audits; civil, administrative, or criminal
 1225 investigations; or inspections relating to the provision of

1226 health services, in accordance with 45 C.F.R. part 164, subpart
 1227 E.

1228 (i) Protected health information and mental health,
 1229 medical, or substance abuse records specified in paragraph
 1230 (1) (a) to a state attorney, a state court, or a law enforcement
 1231 agency conducting an ongoing criminal investigation, if the
 1232 inmate agrees to the disclosure and provides written consent or,
 1233 if the inmate refuses to provide written consent, in response to
 1234 an order of a court of competent jurisdiction, a subpoena,
 1235 including a grand jury, investigative, or administrative
 1236 subpoena, a court-ordered warrant, or a statutorily authorized
 1237 investigative demand or other process as authorized by law, in
 1238 accordance with 45 C.F.R. part 164, subpart E, provided that:

1239 1. The protected health information and records sought are
 1240 relevant and material to a legitimate law enforcement inquiry;

1241 2. There is a clear connection between the investigated
 1242 incident and the inmate whose protected health information and
 1243 records are sought;

1244 3. The request is specific and limited in scope to the
 1245 extent reasonably practicable in light of the purpose for which
 1246 the information or records are sought; and

1247 4. Deidentified information could not reasonably be used.

1248 (j) Protected health information and mental health,
 1249 medical, or substance abuse records specified in paragraph
 1250 (1) (a) of an inmate who is or is suspected of being the victim

1251 of a crime, to a state attorney or a law enforcement agency if
 1252 the inmate agrees to the disclosure and provides written consent
 1253 or if the inmate is unable to agree because of incapacity or
 1254 other emergency circumstance, in accordance with 45 C.F.R. part
 1255 164, subpart E, provided that:

1256 1. Such protected health information and records are
 1257 needed to determine whether a violation of law by a person other
 1258 than the inmate victim has occurred;

1259 2. Such protected health information or records are not
 1260 intended to be used against the inmate victim;

1261 3. The immediate law enforcement activity that depends
 1262 upon the disclosure would be materially and adversely affected
 1263 by waiting until the inmate victim is able to agree to the
 1264 disclosure; and

1265 4. The disclosure is in the best interests of the inmate
 1266 victim, as determined by the department.

1267 (k) Protected health information and mental health,
 1268 medical, or substance abuse records specified in paragraph
 1269 (1)(a) to a state attorney or a law enforcement agency if the
 1270 department believes in good faith that the information and
 1271 records constitute evidence of criminal conduct that occurred in
 1272 a correctional institution or facility, in accordance with 45
 1273 C.F.R. part 164, subpart E, provided that:

1274 1. The protected health information and records disclosed
 1275 are specific and limited in scope to the extent reasonably

1276 | practicable in light of the purpose for which the information or
 1277 | records are sought;

1278 | 2. There is a clear connection between the criminal
 1279 | conduct and the inmate whose protected health information and
 1280 | records are sought; and

1281 | 3. Deidentified information could not reasonably be used.

1282 | (1) Protected health information and mental health,
 1283 | medical, or substance abuse records specified in paragraph
 1284 | (1) (a) to the Division of Risk Management of the Department of
 1285 | Financial Services, in accordance with 45 C.F.R. part 164,
 1286 | subpart E, upon certification by the Division of Risk Management
 1287 | that such information and records are necessary to investigate
 1288 | and provide legal representation for a claim against the
 1289 | Department of Corrections.

1290 | (m) Protected health information and mental health,
 1291 | medical, or substance abuse records specified in paragraph
 1292 | (1) (a) of an inmate who is bringing a legal action against the
 1293 | department, to the Department of Legal Affairs or to an attorney
 1294 | retained to represent the department in a legal proceeding, in
 1295 | accordance with 45 C.F.R. part 164, subpart E.

1296 | (n) Protected health information and mental health,
 1297 | medical, or substance abuse records of an inmate as specified in
 1298 | paragraph (1) (a) to another correctional institution or facility
 1299 | or law enforcement official having lawful custody of the inmate,
 1300 | in accordance with 45 C.F.R. part 164, subpart E, if the

1301 | protected health information or records are necessary for:

1302 | 1. The provision of health care to the inmate;

1303 | 2. The health and safety of the inmate or other inmates;

1304 | 3. The health and safety of the officers, employees, or

1305 | others at the correctional institution or facility;

1306 | 4. The health and safety of the individuals or officers

1307 | responsible for transporting the inmate from one correctional

1308 | institution, facility, or setting to another;

1309 | 5. Law enforcement on the premises of the correctional

1310 | institution or facility; or

1311 | 6. The administration and maintenance of the safety,

1312 | security, and good order of the correctional institution or

1313 | facility.

1314 | (o) Protected health information and mental health,

1315 | medical, or substance abuse records of an inmate as specified in

1316 | paragraph (1)(a) to the Department of Children and Families and

1317 | the Florida Commission on Offender Review, in accordance with 45

1318 | C.F.R. part 164, subpart E, if the inmate received mental health

1319 | treatment while in the custody of the Department of Corrections

1320 | and becomes eligible for release under supervision or upon the

1321 | end of his or her sentence.

1322 | (p) Notwithstanding s. 456.057 and in accordance with 45

1323 | C.F.R. part 164, subpart E, protected health information and

1324 | mental health, medical, or substance abuse records specified in

1325 | paragraph (1)(a) of a deceased inmate or offender to an

1326 individual with authority to act on behalf of the deceased
1327 inmate or offender, upon the individual's request. For purposes
1328 of this section, the following individuals have authority to act
1329 on behalf of a deceased inmate or offender only for the purpose
1330 of requesting access to such protected health information and
1331 records:

1332 1. A person appointed by a court to act as the personal
1333 representative, executor, administrator, curator, or temporary
1334 administrator of the deceased inmate's or offender's estate;

1335 2. If a court has not made a judicial appointment under
1336 subparagraph 1., a person designated by the inmate or offender
1337 to act as his or her personal representative in a last will that
1338 is self-proved under s. 732.503; or

1339 3. If a court has not made a judicial appointment under
1340 subparagraph 1. or if the inmate or offender has not designated
1341 a person in a self-proved last will as provided in subparagraph
1342 2., only the following individuals:

1343 a. A surviving spouse.

1344 b. If there is no surviving spouse, a surviving adult
1345 child of the inmate or offender.

1346 c. If there is no surviving spouse or adult child, a
1347 parent of the inmate or offender.

1348 (q) All requests for access to a deceased inmate's or
1349 offender's protected health information or mental health,
1350 medical, or substance abuse records specified in paragraph

1351 (1) (a) must be in writing and must be accompanied by the
 1352 following:

1353 1. If made by a person authorized under subparagraph
 1354 (p)1., a copy of the letter of administration and a copy of the
 1355 court order appointing such person as the representative of the
 1356 inmate's or offender's estate.

1357 2. If made by a person authorized under subparagraph
 1358 (p)2., a copy of the self-proved last will designating the
 1359 person as the inmate's or offender's representative.

1360 3. If made by a person authorized under subparagraph
 1361 (p)3., a letter from the person's attorney verifying the
 1362 person's relationship to the inmate or offender and the absence
 1363 of a court-appointed representative and self-proved last will.

1364
 1365 Records and information released under this subsection remain
 1366 confidential and exempt from the provisions of s. 119.07(1) and
 1367 s. 24(a), Art. I of the State Constitution when held by the
 1368 receiving person or entity.

1369 Section 32. This act shall take effect upon becoming a
 1370 law.