

HB 561

2012

1                   A bill to be entitled  
2     An act relating to sentences of inmates; amending s.  
3     893.135, F.S.; revising the quantity of a controlled  
4     substance which a person must knowingly sell,  
5     purchase, manufacture, deliver, or bring into this  
6     state in order to be subject to the automatic  
7     imposition of a mandatory minimum term of  
8     imprisonment; providing the method for determining the  
9     weight of a controlled substance in a mixture that is  
10    a prescription drug; revising legislative intent;  
11    amending s. 921.0022, F.S.; revising provisions to  
12    conform to changes made by the act; reenacting ss.  
13    775.087(2)(a) and 782.04(1)(a), (3), and (4), F.S.,  
14    relating to the possession or use of a weapon and  
15    murder, respectively, to incorporate the amendments  
16    made to s. 893.135, F.S., in references thereto;  
17    repealing s. 893.101, F.S., relating to legislative  
18    findings and intent relative to knowledge of a person  
19    to the possession of a controlled substance; providing  
20    an effective date.

21  
22    Be It Enacted by the Legislature of the State of Florida:

23  
24       Section 1.   Section 893.135, Florida Statutes, is amended  
25    to read:

26       893.135   Trafficking; mandatory sentences; suspension or  
27    reduction of sentences; conspiracy to engage in trafficking.—

28       (1)   Except as authorized in this chapter or in chapter 499

HB 561

2012

and notwithstanding the provisions of s. 893.13:

(a) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of 25 pounds of cannabis, or 300 or more cannabis plants, commits a felony of the first degree, which felony shall be known as "trafficking in cannabis," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity of cannabis involved:

1. Is in excess of 25 pounds, but less than 2,000 pounds, or is 300 or more cannabis plants, but not more than 2,000 cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$25,000.

2. Is 2,000 pounds or more, but less than 10,000 pounds, or is 2,000 or more cannabis plants, but not more than 10,000 cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$50,000.

3. Is 10,000 pounds or more, or is 10,000 or more cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years, and the defendant shall be ordered to pay a fine of \$200,000.

For the purpose of this paragraph, a plant, including, but not limited to, a seedling or cutting, is a "cannabis plant" if it has some readily observable evidence of root formation, such as root hairs. To determine if a piece or part of a cannabis plant severed from the cannabis plant is itself a cannabis plant, the

HB 561

2012

57 severed piece or part must have some readily observable evidence  
58 of root formation, such as root hairs. Callous tissue is not  
59 readily observable evidence of root formation. The viability and  
60 sex of a plant and the fact that the plant may or may not be a  
61 dead harvested plant are not relevant in determining if the  
62 plant is a "cannabis plant" or in the charging of an offense  
63 under this paragraph. Upon conviction, the court shall impose  
64 the longest term of imprisonment provided for in this paragraph.

65 (b)1. Any person who knowingly sells, purchases,  
66 manufactures, delivers, or brings into this state, or who is  
67 knowingly in actual or constructive possession of, 50 ~~28~~ grams  
68 or more of cocaine, as described in s. 893.03(2)(a)4., or of any  
69 mixture containing cocaine, but less than 150 kilograms of  
70 cocaine or any such mixture, commits a felony of the first  
71 degree, which felony shall be known as "trafficking in cocaine,"  
72 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
73 If the quantity involved:

74 a. Is 50 ~~28~~ grams or more, but less than 400 ~~200~~ grams,  
75 such person shall be sentenced to a mandatory minimum term of  
76 imprisonment of 3 years, and the defendant shall be ordered to  
77 pay a fine of \$50,000.

78 b. Is 400 ~~200~~ grams or more, but less than 4 kilograms ~~400~~  
79 ~~grams~~, such person shall be sentenced to a mandatory minimum  
80 term of imprisonment of 7 years, and the defendant shall be  
81 ordered to pay a fine of \$100,000.

82 c. Is 4 kilograms ~~400-grams~~ or more, but less than 150  
83 kilograms, such person shall be sentenced to a mandatory minimum  
84 term of imprisonment of 15 calendar years, and the defendant

HB 561

2012

85 shall be ordered to pay a fine of \$250,000.

86       2. Any person who knowingly sells, purchases,  
87 manufactures, delivers, or brings into this state, or who is  
88 knowingly in actual or constructive possession of, 150 kilograms  
89 or more of cocaine, as described in s. 893.03(2)(a)4., commits  
90 the first degree felony of trafficking in cocaine. A person who  
91 has been convicted of the first-degree ~~first-degree~~ felony of  
92 trafficking in cocaine under this subparagraph shall be punished  
93 by life imprisonment and is ineligible for any form of  
94 discretionary early release except pardon or executive clemency  
95 or conditional medical release under s. 947.149. However, if the  
96 court determines that, in addition to committing any act  
97 specified in this paragraph:

98       a. The person intentionally killed an individual or  
99 counseled, commanded, induced, procured, or caused the  
100 intentional killing of an individual and such killing was the  
101 result; or

102       b. The person's conduct in committing that act led to a  
103 natural, though not inevitable, lethal result,  
104  
105 such person commits the capital felony of trafficking in  
106 cocaine, punishable as provided in ss. 775.082 and 921.142. Any  
107 person sentenced for a capital felony under this paragraph shall  
108 also be ordered ~~sentenced~~ to pay the maximum fine provided under  
109 subparagraph 1.

110       3. Any person who knowingly brings into this state 300  
111 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,  
112 and who knows that the probable result of such importation would

HB 561

2012

113 be the death of any person, commits capital importation of  
114 cocaine, a capital felony punishable as provided in ss. 775.082  
115 and 921.142. Any person sentenced for a capital felony under  
116 this paragraph shall also be ordered ~~sentenced~~ to pay the  
117 maximum fine provided under subparagraph 1.

118 (c)1. Any person who knowingly sells, purchases,  
119 manufactures, delivers, or brings into this state, or who is  
120 knowingly in actual or constructive possession of, 4 grams or  
121 more of any morphine, opium, oxycodone, hydrocodone,  
122 hydromorphone, or any salt, derivative, isomer, or salt of an  
123 isomer thereof, including heroin, as described in s.  
124 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more  
125 of any mixture containing any such substance, but less than 30  
126 kilograms of such substance or mixture, commits a felony of the  
127 first degree, which felony shall be known as "trafficking in  
128 illegal drugs," punishable as provided in s. 775.082, s.  
129 775.083, or s. 775.084. If the quantity involved:

130 a. Is 4 grams or more, but less than 14 grams, such person  
131 shall be sentenced to a mandatory minimum term of imprisonment  
132 of 3 years, and the defendant shall be ordered to pay a fine of  
133 \$50,000.

134 b. Is 14 grams or more, but less than 28 grams, such  
135 person shall be sentenced to a mandatory minimum term of  
136 imprisonment of 15 years, and the defendant shall be ordered to  
137 pay a fine of \$100,000.

138 c. Is 28 grams or more, but less than 30 kilograms, such  
139 person shall be sentenced to a mandatory minimum term of  
140 imprisonment of 25 calendar years, and the defendant shall be

HB 561

2012

ordered to pay a fine of \$500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture containing any such substance, commits the first-degree ~~first-degree~~ felony of trafficking in illegal drugs. A person who has been convicted of the first-degree ~~first-degree~~ felony of trafficking in illegal drugs under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

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

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result, such person commits the capital felony of trafficking in illegal drugs, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be ordered ~~sentenced~~ to pay the maximum fine provided under

HB 561

2012

subparagraph 1.

3. Any person who knowingly brings into this state 60 kilograms or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or more of any mixture containing any such substance, and who knows that the probable result of such importation would be the death of any person, commits capital importation of illegal drugs, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be ordered ~~sentenced~~ to pay the maximum fine provided under subparagraph 1.

(d)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), commits a felony of the first degree, which felony shall be known as "trafficking in phencyclidine," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 50 ~~28~~ grams or more, but less than 400 ~~200~~ grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 400 ~~200~~ grams or more, but less than 4 kilograms ~~400 grams~~, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be

HB 561

2012

197 ordered to pay a fine of \$100,000.

198 c. Is 4 kilograms ~~400 grams~~ or more, such person shall be  
199 sentenced to a mandatory minimum term of imprisonment of 15  
200 calendar years, and the defendant shall be ordered to pay a fine  
201 of \$250,000.

202 2. Any person who knowingly brings into this state 8  
203 kilograms ~~800 grams~~ or more of phencyclidine or of any mixture  
204 containing phencyclidine, as described in s. 893.03(2)(b), and  
205 who knows that the probable result of such importation would be  
206 the death of any person commits capital importation of  
207 phencyclidine, a capital felony punishable as provided in ss.  
208 775.082 and 921.142. Any person sentenced for a capital felony  
209 under this paragraph shall also be ordered ~~sentenced~~ to pay the  
210 maximum fine provided under subparagraph 1.

211 (e)1. Any person who knowingly sells, purchases,  
212 manufactures, delivers, or brings into this state, or who is  
213 knowingly in actual or constructive possession of, 200 grams or  
214 more of methaqualone or of any mixture containing methaqualone,  
215 as described in s. 893.03(1)(d), commits a felony of the first  
216 degree, which felony shall be known as "trafficking in  
217 methaqualone," punishable as provided in s. 775.082, s. 775.083,  
218 or s. 775.084. If the quantity involved:

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

223 b. Is 5 kilograms or more, but less than 25 kilograms,  
224 such person shall be sentenced to a mandatory minimum term of



HB 561

2012

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

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

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

(f)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 ~~14~~ grams or more of amphetamine, as described in s. 893.03(2)(c)2., or methamphetamine, as described in s. 893.03(2)(c)4., or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine in conjunction with other chemicals and equipment utilized in the manufacture of amphetamine or methamphetamine, commits a felony of the first degree, which felony shall be known as "trafficking in amphetamine," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 30 ~~14~~ grams or more, but less than 200 ~~28~~ grams,

HB 561

2012

such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 200 ~~28~~ grams or more, but less than 400 ~~200~~ grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 400 ~~200~~ grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years, and the defendant shall be ordered to pay a fine of \$250,000.

2. Any person who knowingly manufactures or brings into this state 1.5 kilograms ~~400-grams~~ or more of amphetamine, as described in s. 893.03(2)(c)2., or methamphetamine, as described in s. 893.03(2)(c)4., or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine in conjunction with other chemicals and equipment used in the manufacture of amphetamine or methamphetamine, and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of amphetamine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be ordered ~~sentenced~~ to pay the maximum fine provided under subparagraph 1.

(g)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or

HB 561

2012

281 more of flunitrazepam or any mixture containing flunitrazepam as  
282 described in s. 893.03(1)(a) commits a felony of the first  
283 degree, which felony shall be known as "trafficking in  
284 flunitrazepam," punishable as provided in s. 775.082, s.  
285 775.083, or s. 775.084. If the quantity involved:

286 a. Is 4 grams or more but less than 14 grams, such person  
287 shall be sentenced to a mandatory minimum term of imprisonment  
288 of 3 years, and the defendant shall be ordered to pay a fine of  
289 \$50,000.

290 b. Is 14 grams or more but less than 28 grams, such person  
291 shall be sentenced to a mandatory minimum term of imprisonment  
292 of 7 years, and the defendant shall be ordered to pay a fine of  
293 \$100,000.

294 c. Is 28 grams or more but less than 30 kilograms, such  
295 person shall be sentenced to a mandatory minimum term of  
296 imprisonment of 25 calendar years, and the defendant shall be  
297 ordered to pay a fine of \$500,000.

298 2. Any person who knowingly sells, purchases,  
299 manufactures, delivers, or brings into this state or who is  
300 knowingly in actual or constructive possession of 30 kilograms  
301 or more of flunitrazepam or any mixture containing flunitrazepam  
302 as described in s. 893.03(1)(a) commits the first-degree ~~first~~  
303 ~~degree~~ felony of trafficking in flunitrazepam. A person who has  
304 been convicted of the first-degree ~~first-degree~~ felony of  
305 trafficking in flunitrazepam under this subparagraph shall be  
306 punished by life imprisonment and is ineligible for any form of  
307 discretionary early release except pardon or executive clemency  
308 or conditional medical release under s. 947.149. However, if the

HB 561

2012

309 court determines that, in addition to committing any act  
310 specified in this paragraph:

311 a. The person intentionally killed an individual or  
312 counseled, commanded, induced, procured, or caused the  
313 intentional killing of an individual and such killing was the  
314 result; or

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

317  
318 such person commits the capital felony of trafficking in  
319 flunitrazepam, punishable as provided in ss. 775.082 and  
320 921.142. Any person sentenced for a capital felony under this  
321 paragraph shall also be ordered ~~sentenced~~ to pay the maximum  
322 fine provided under subparagraph 1.

323 (h)1. Any person who knowingly sells, purchases,  
324 manufactures, delivers, or brings into this state, or who is  
325 knowingly in actual or constructive possession of, 5 kilograms ~~±~~  
326 ~~kilogram~~ or more of gamma-hydroxybutyric acid (GHB), as  
327 described in s. 893.03(1)(d), or any mixture containing gamma-  
328 hydroxybutyric acid (GHB), commits a felony of the first degree,  
329 which felony shall be known as "trafficking in gamma-  
330 hydroxybutyric acid (GHB)," punishable as provided in s.  
331 775.082, s. 775.083, or s. 775.084. If the quantity involved:

332 a. Is 5 kilograms ~~1 kilogram~~ or more but less than 15 ~~5~~  
333 kilograms, such person shall be sentenced to a mandatory minimum  
334 term of imprisonment of 3 years, and the defendant shall be  
335 ordered to pay a fine of \$50,000.

336 b. Is 15 ~~5~~ kilograms or more but less than 30 ~~10~~

HB 561

2012

337 kilograms, such person shall be sentenced to a mandatory minimum  
338 term of imprisonment of 7 years, and the defendant shall be  
339 ordered to pay a fine of \$100,000.

340 c. Is 30 ~~10~~ kilograms or more, such person shall be  
341 sentenced to a mandatory minimum term of imprisonment of 15  
342 calendar years, and the defendant shall be ordered to pay a fine  
343 of \$250,000.

344 2. Any person who knowingly manufactures or brings into  
345 this state 150 kilograms or more of gamma-hydroxybutyric acid  
346 (GHB), as described in s. 893.03(1)(d), or any mixture  
347 containing gamma-hydroxybutyric acid (GHB), and who knows that  
348 the probable result of such manufacture or importation would be  
349 the death of any person commits capital manufacture or  
350 importation of gamma-hydroxybutyric acid (GHB), a capital felony  
351 punishable as provided in ss. 775.082 and 921.142. Any person  
352 sentenced for a capital felony under this paragraph shall also  
353 be ordered ~~sentenced~~ to pay the maximum fine provided under  
354 subparagraph 1.

355 (i)1. Any person who knowingly sells, purchases,  
356 manufactures, delivers, or brings into this state, or who is  
357 knowingly in actual or constructive possession of, 5 kilograms ~~1~~  
358 ~~kilogram~~ or more of gamma-butyrolactone (GBL), as described in  
359 s. 893.03(1)(d), or any mixture containing gamma-butyrolactone  
360 (GBL), commits a felony of the first degree, which felony shall  
361 be known as "trafficking in gamma-butyrolactone (GBL),"   
362 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
363 If the quantity involved:

364 a. Is 5 kilograms ~~1 kilogram~~ or more but less than 15 ~~5~~

HB 561

2012

365 kilograms, such person shall be sentenced to a mandatory minimum  
366 term of imprisonment of 3 years, and the defendant shall be  
367 ordered to pay a fine of \$50,000.

368 b. Is 15 ~~5~~ kilograms or more but less than 30 ~~10~~  
369 kilograms, such person shall be sentenced to a mandatory minimum  
370 term of imprisonment of 7 years, and the defendant shall be  
371 ordered to pay a fine of \$100,000.

372 c. Is 30 ~~10~~ kilograms or more, such person shall be  
373 sentenced to a mandatory minimum term of imprisonment of 15  
374 calendar years, and the defendant shall be ordered to pay a fine  
375 of \$250,000.

376 2. Any person who knowingly manufactures or brings into  
377 the state 150 kilograms or more of gamma-butyrolactone (GBL), as  
378 described in s. 893.03(1)(d), or any mixture containing gamma-  
379 butyrolactone (GBL), and who knows that the probable result of  
380 such manufacture or importation would be the death of any person  
381 commits capital manufacture or importation of gamma-  
382 butyrolactone (GBL), a capital felony punishable as provided in  
383 ss. 775.082 and 921.142. Any person sentenced for a capital  
384 felony under this paragraph shall also be ordered ~~sentenced~~ to  
385 pay the maximum fine provided under subparagraph 1.

386 (j)1. Any person who knowingly sells, purchases,  
387 manufactures, delivers, or brings into this state, or who is  
388 knowingly in actual or constructive possession of, 5 kilograms ~~1~~  
389 ~~kilogram~~ or more of 1,4-Butanediol as described in s.  
390 893.03(1)(d), or of any mixture containing 1,4-Butanediol,  
391 commits a felony of the first degree, which felony shall be  
392 known as "trafficking in 1,4-Butanediol," punishable as provided

HB 561

2012

in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 5 kilograms ~~1 kilogram~~ or more, but less than 15 ~~5~~ kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.

b. Is 15 ~~5~~ kilograms or more, but less than 30 ~~10~~ kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 30 ~~10~~ kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years, and the defendant shall be ordered to pay a fine of \$500,000.

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

(k)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 10 grams or more of any of the following substances described in s.

HB 561

2012

893.03(1) (a) or (c):

- a. 3,4-Methylenedioxyamphetamine (MDMA);
- b. 4-Bromo-2,5-dimethoxyamphetamine;
- c. 4-Bromo-2,5-dimethoxyphenethylamine;
- d. 2,5-Dimethoxyamphetamine;
- e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- f. N-ethylamphetamine;
- g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- i. 4-methoxyamphetamine;
- j. 4-methoxymethamphetamine;
- k. 4-Methyl-2,5-dimethoxyamphetamine;
- l. 3,4-Methylenedioxy-N-ethylamphetamine;
- m. 3,4-Methylenedioxyamphetamine;
- n. N,N-dimethylamphetamine; or
- o. 3,4,5-Trimethoxyamphetamine,

individually or in any combination of or any mixture containing any substance listed in sub-subparagraphs a.-o., commits a felony of the first degree, which felony shall be known as "trafficking in Phenethylamines," punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. If the quantity involved:

- a. Is 30 ~~10~~ grams or more but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000.
- b. Is 200 grams or more, but less than 400 grams, such



HB 561

2012

person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

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

3. Any person who knowingly manufactures or brings into this state 30 kilograms or more of any of the following substances described in s. 893.03(1)(a) or (c):

- a. 3,4-Methylenedioxymethamphetamine (MDMA);
- b. 4-Bromo-2,5-dimethoxyamphetamine;
- c. 4-Bromo-2,5-dimethoxyphenethylamine;
- d. 2,5-Dimethoxyamphetamine;
- e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- f. N-ethylamphetamine;
- g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- i. 4-methoxyamphetamine;
- j. 4-methoxymethamphetamine;
- k. 4-Methyl-2,5-dimethoxyamphetamine;
- l. 3,4-Methylenedioxy-N-ethylamphetamine;
- m. 3,4-Methylenedioxyamphetamine;
- n. N,N-dimethylamphetamine; or
- o. 3,4,5-Trimethoxyamphetamine,

individually or in any combination of or any mixture containing any substance listed in sub-subparagraphs a.-o., and who knows that the probable result of such manufacture or importation

HB 561

2012

477 would be the death of any person commits capital manufacture or  
478 importation of Phenethylamines, a capital felony punishable as  
479 provided in ss. 775.082 and 921.142. Any person sentenced for a  
480 capital felony under this paragraph shall also be ordered  
481 ~~sentenced~~ to pay the maximum fine provided under subparagraph 1.

482 (1)1. Any person who knowingly sells, purchases,  
483 manufactures, delivers, or brings into this state, or who is  
484 knowingly in actual or constructive possession of, 1 gram or  
485 more of lysergic acid diethylamide (LSD) as described in s.  
486 893.03(1)(c), or of any mixture containing lysergic acid  
487 diethylamide (LSD), commits a felony of the first degree, which  
488 felony shall be known as "trafficking in lysergic acid  
489 diethylamide (LSD)," punishable as provided in s. 775.082, s.  
490 775.083, or s. 775.084. If the quantity involved:

491 a. Is 1 gram or more, but less than 5 grams, such person  
492 shall be sentenced to a mandatory minimum term of imprisonment  
493 of 3 years, and the defendant shall be ordered to pay a fine of  
494 \$50,000.

495 b. Is 5 grams or more, but less than 7 grams, such person  
496 shall be sentenced to a mandatory minimum term of imprisonment  
497 of 7 years, and the defendant shall be ordered to pay a fine of  
498 \$100,000.

499 c. Is 7 grams or more, such person shall be sentenced to a  
500 mandatory minimum term of imprisonment of 15 calendar years, and  
501 the defendant shall be ordered to pay a fine of \$500,000.

502 2. Any person who knowingly manufactures or brings into  
503 this state 7 grams or more of lysergic acid diethylamide (LSD)  
504 as described in s. 893.03(1)(c), or any mixture containing

HB 561

2012

505 lysergic acid diethylamide (LSD), and who knows that the  
506 probable result of such manufacture or importation would be the  
507 death of any person commits capital manufacture or importation  
508 of lysergic acid diethylamide (LSD), a capital felony punishable  
509 as provided in ss. 775.082 and 921.142. Any person sentenced for  
510 a capital felony under this paragraph shall also be ordered  
511 ~~sentenced~~ to pay the maximum fine provided under subparagraph 1.

512 (2) A person acts knowingly under subsection (1) if that  
513 person intends to sell, purchase, manufacture, deliver, or bring  
514 into this state, or to actually or constructively possess, any  
515 of the controlled substances listed in subsection (1),  
516 regardless of which controlled substance listed in subsection  
517 (1) is in fact sold, purchased, manufactured, delivered, or  
518 brought into this state, or actually or constructively  
519 possessed.

520 (3) Notwithstanding the provisions of s. 948.01, with  
521 respect to any person who is found to have violated this  
522 section, adjudication of guilt or imposition of sentence may  
523 ~~shall~~ not be suspended, deferred, or withheld, and ~~nor shall~~  
524 such person is not ~~be~~ eligible for parole before ~~prior to~~  
525 serving the mandatory minimum term of imprisonment prescribed by  
526 this section. A person sentenced to a mandatory minimum term of  
527 imprisonment under this section is not eligible for any form of  
528 discretionary early release, except pardon or executive clemency  
529 or conditional medical release under s. 947.149, before ~~prior to~~  
530 serving the mandatory minimum term of imprisonment.

531 (4) The state attorney may move the sentencing court to  
532 reduce or suspend the sentence of any person who is convicted of

HB 561

2012

533 a violation of this section and who provides substantial  
534 assistance in the identification, arrest, or conviction of any  
535 of that person's accomplices, accessories, coconspirators, or  
536 principals or of any other person engaged in trafficking in  
537 controlled substances. The arresting agency shall be given an  
538 opportunity to be heard in aggravation or mitigation in  
539 reference to any such motion. Upon good cause shown, the motion  
540 may be filed and heard in camera. The judge hearing the motion  
541 may reduce or suspend, defer, or withhold the sentence or  
542 adjudication of guilt if the judge finds that the defendant  
543 rendered such substantial assistance.

544 (5) Any person who agrees, conspires, combines, or  
545 confederates with another person to commit any act prohibited by  
546 subsection (1) commits a felony of the first degree and is  
547 punishable as if he or she had actually committed such  
548 prohibited act. ~~Nothing in~~ This subsection does not ~~shall be~~  
549 ~~construed to~~ prohibit separate convictions and sentences for a  
550 violation of this subsection and any violation of subsection  
551 (1).

552 (6) A mixture, as defined in s. 893.02, containing any  
553 controlled substance described in this section includes, but is  
554 not limited to, a solution or a dosage unit, including, but not  
555 limited to, a pill or tablet, containing a controlled substance.  
556 For the purpose of clarifying legislative intent regarding the  
557 weighing of a mixture containing a controlled substance  
558 described in this section, the weight of the controlled  
559 substance is the total weight of the mixture, including the  
560 controlled substance and any other substance in the mixture.

HB 561

2012

However, if the mixture is a prescription drug as defined in s. 499.003 and the weight of the controlled substance in the mixture can be identified using the national drug code, the weight of the controlled substance is the weight identified in the national drug code. If there is more than one mixture containing the same controlled substance, the weight of the controlled substance is calculated by aggregating the total weight of each mixture.

(7) For the purpose of further clarifying legislative intent, the Legislature finds that the opinion in Hayes v. State, 750 So. 2d 1 (Fla. 1999) ~~does not~~ correctly construes ~~construe~~ legislative intent. The Legislature finds that the opinions in State v. Hayes, 720 So. 2d 1095 (Fla. 4th DCA 1998) and State v. Baxley, 684 So. 2d 831 (Fla. 5th DCA 1996) do not correctly construe legislative intent.

Section 2. Paragraphs (g), (h), and (i) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(g) LEVEL 7

| Florida Statute | Felony Degree | Description   |
|-----------------|---------------|---|
| 316.027(1)(b)   | 1st           | Accident involving death, failure to stop; leaving scene. |

HB 561

2012

316.193(3)(c)2.      3rd      DUI resulting in serious bodily injury.

316.1935(3)(b)      1st      Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

327.35(3)(c)2.      3rd      Vessel BUI resulting in serious bodily injury.

402.319(2)      2nd      Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death.

409.920      3rd      Medicaid provider fraud; \$10,000 or less.  
(2)(b)1.a.

409.920      2nd      Medicaid provider fraud; more than \$10,000, but less than \$50,000.  
(2)(b)1.b.

456.065(2)      3rd      Practicing a health care profession without a license.

HB 561

2012

|     |             |     |   |
|-----|-------------|-----|---|
| 592 | 456.065 (2) | 2nd | Practicing a health care profession<br>without a license which results in<br>serious bodily injury. |
| 593 | 458.327 (1) | 3rd | Practicing medicine without a license.  |
| 594 | 459.013 (1) | 3rd | Practicing osteopathic medicine without<br>a license.   |
| 595 | 460.411 (1) | 3rd | Practicing chiropractic medicine<br>without a license.  |
| 596 | 461.012 (1) | 3rd | Practicing podiatric medicine without a<br>license.   |
| 597 | 462.17      | 3rd | Practicing naturopathy without a<br>license.  |
| 598 | 463.015 (1) | 3rd | Practicing optometry without a license.   |
| 599 | 464.016 (1) | 3rd | Practicing nursing without a license.   |
| 600 | 465.015 (2) | 3rd | Practicing pharmacy without a license.  |
| 601 | 466.026 (1) | 3rd | Practicing dentistry or dental hygiene<br>without a license.  |

HB 561

2012

|     |                    |     |  |
|-----|--------------------|-----|--|
| 602 | 467.201            | 3rd | Practicing midwifery without a license.  |
| 603 | 468.366            | 3rd | Delivering respiratory care services without a license.  |
| 604 | 483.828 (1)        | 3rd | Practicing as clinical laboratory personnel without a license.   |
| 605 | 483.901 (9)        | 3rd | Practicing medical physics without a license.  |
| 606 | 484.013 (1) (c)    | 3rd | Preparing or dispensing optical devices without a prescription.  |
| 607 | 484.053            | 3rd | Dispensing hearing aids without a license.   |
| 608 | 494.0018 (2)       | 1st | Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims. |
| 609 | 560.123 (8) (b) 1. | 3rd | Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.   |



HB 561

2012

|     |                    |     |  |
|-----|--------------------|-----|--|
| 610 | 560.125 (5) (a)    | 3rd | Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.        |
| 611 | 655.50 (10) (b) 1. | 3rd | Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.                      |
| 612 | 775.21 (10) (a)    | 3rd | Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations. |
| 613 | 775.21 (10) (b)    | 3rd | Sexual predator working where children regularly congregate.   |
| 614 | 775.21 (10) (g)    | 3rd | Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.                 |
| 615 | 782.051 (3)        | 2nd | Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.          |
| 616 | 782.07 (1)         | 2nd | Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).                            |

HB 561

2012

|     |                    |     |   |
|-----|--------------------|-----|---|
| 617 | 782.071            | 2nd | Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide). |
| 618 | 782.072            | 2nd | Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).                           |
| 619 | 784.045 (1) (a) 1. | 2nd | Aggravated battery; intentionally causing great bodily harm or disfigurement.   |
| 620 | 784.045 (1) (a) 2. | 2nd | Aggravated battery; using deadly weapon.  |
| 621 | 784.045 (1) (b)    | 2nd | Aggravated battery; perpetrator aware victim pregnant.  |
| 622 | 784.048 (4)        | 3rd | Aggravated stalking; violation of injunction or court order.  |
| 623 | 784.048 (7)        | 3rd | Aggravated stalking; violation of court order.  |
| 624 | 784.07 (2) (d)     | 1st | Aggravated battery on law enforcement officer.  |

HB 561

2012

|     |                 |     |  |
|-----|-----------------|-----|--|
| 625 | 784.074 (1) (a) | 1st | Aggravated battery on sexually violent predators facility staff.   |
| 626 | 784.08 (2) (a)  | 1st | Aggravated battery on a person 65 years of age or older.   |
| 627 | 784.081 (1)     | 1st | Aggravated battery on specified official or employee.  |
| 628 | 784.082 (1)     | 1st | Aggravated battery by detained person on visitor or other detainee.  |
| 629 | 784.083 (1)     | 1st | Aggravated battery on code inspector.  |
| 630 | 790.07 (4)      | 1st | Specified weapons violation subsequent to previous conviction of s. 790.07 (1) or (2).                         |
| 631 | 790.16 (1)      | 1st | Discharge of a machine gun under specified circumstances.  |
| 632 | 790.165 (2)     | 2nd | Manufacture, sell, possess, or deliver hoax bomb.  |
| 633 | 790.165 (3)     | 2nd | Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony. |

HB 561

2012

|     |                |         |  |
|-----|----------------|---------|--|
| 634 | 790.166(3)     | 2nd     | Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.  |
| 635 | 790.166(4)     | 2nd     | Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.     |
| 636 | 790.23         | 1st,PBL | Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.                              |
| 637 | 794.08(4)      | 3rd     | Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age. |
| 638 | 796.03         | 2nd     | Procuring any person under 16 years for prostitution.  |
| 639 | 800.04(5)(c)1. | 2nd     | Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.   |
|     | 800.04(5)(c)2. | 2nd     | Lewd or lascivious molestation; victim 12 years of age or older but less than  |

HB 561

2012

16 years; offender 18 years or older.

806.01 (2)                      2nd      Maliciously damage structure by fire or explosive.

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

810.02 (3) (b)                      2nd      Burglary of unoccupied dwelling; unarmed; no assault or battery.

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

810.02 (3) (e)                      2nd      Burglary of authorized emergency vehicle.

812.014 (2) (a) 1.                      1st      Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.

812.014 (2) (b) 2.                      2nd      Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.

HB 561

2012

|     |                 |     |  |
|-----|-----------------|-----|--|
| 648 | 812.014(2)(b)3. | 2nd | Property stolen, emergency medical equipment; 2nd degree grand theft.                                      |
| 649 | 812.014(2)(b)4. | 2nd | Property stolen, law enforcement equipment from authorized emergency vehicle.                              |
| 650 | 812.0145(2)(a)  | 1st | Theft from person 65 years of age or older; \$50,000 or more.  |
| 651 | 812.019(2)      | 1st | Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property. |
| 652 | 812.131(2)(a)   | 2nd | Robbery by sudden snatching.   |
| 653 | 812.133(2)(b)   | 1st | Carjacking; no firearm, deadly weapon, or other weapon.  |
| 654 | 817.234(8)(a)   | 2nd | Solicitation of motor vehicle accident victims with intent to defraud.                                     |
| 655 | 817.234(9)      | 2nd | Organizing, planning, or participating in an intentional motor vehicle collision.                          |
|     | 817.234(11)(c)  | 1st | Insurance fraud; property value  |

HB 561

2012

\$100,000 or more.

656

817.2341  
(2) (b) &  
(3) (b)

1st

Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.

657

825.102 (3) (b)

2nd

Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.

658

825.103 (2) (b)

2nd

Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.

659

827.03 (3) (b)

2nd

Neglect of a child causing great bodily harm, disability, or disfigurement.

660

827.04 (3)

3rd

Impregnation of a child under 16 years of age by person 21 years of age or older.

661

837.05 (2)

3rd

Giving false information about alleged capital felony to a law enforcement officer.

662

HB 561

2012

|     |                |         |  |
|-----|----------------|---------|--|
| 663 | 838.015        | 2nd     | Bribery.   |
| 664 | 838.016        | 2nd     | Unlawful compensation or reward for official behavior.   |
| 665 | 838.021(3)(a)  | 2nd     | Unlawful harm to a public servant.   |
| 666 | 838.22         | 2nd     | Bid tampering.   |
| 667 | 847.0135(3)    | 3rd     | Solicitation of a child, via a computer service, to commit an unlawful sex act.  |
| 668 | 847.0135(4)    | 2nd     | Traveling to meet a minor to commit an unlawful sex act.   |
| 669 | 872.06         | 2nd     | Abuse of a dead human body.  |
| 670 | 874.10         | 1st,PBL | Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.   |
|     | 893.13(1)(c)1. | 1st     | Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or |



HB 561

2012

state, county, or municipal park or publicly owned recreational facility or community center.

671

893.13(1)(e)1.      1st      Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.

672

893.13(4)(a)      1st      Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

673

893.135(1)(a)1.      1st      Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

674

893.135      1st      Trafficking in cocaine, more than 50 ~~28~~ (1)(b)1.a. grams, less than 400 ~~200~~ grams.

675

893.135      1st      Trafficking in illegal drugs, more than (1)(c)1.a. 4 grams, less than 14 grams.

676

893.135(1)(d)1.      1st      Trafficking in phencyclidine, more than 50 ~~28~~ grams, less than 400 ~~200~~ grams.

677

HB 561

2012

|     |                      |     |   |
|-----|----------------------|-----|---|
| 678 | 893.135 (1) (e) 1.   | 1st | Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.  |
| 679 | 893.135 (1) (f) 1.   | 1st | Trafficking in amphetamine, more than <u>30</u> 14 grams, less than <u>200</u> 28 grams.  |
| 680 | 893.135 (1) (g) 1.a. | 1st | Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.  |
| 681 | 893.135 (1) (h) 1.a. | 1st | Trafficking in gamma-hydroxybutyric acid (GHB), <u>5 kilograms</u> <del>1 kilogram</del> or more, less than <u>15</u> <del>5</del> kilograms. |
| 682 | 893.135 (1) (j) 1.a. | 1st | Trafficking in 1,4-Butanediol, <u>5 kilograms</u> <del>1 kilogram</del> or more, less than <u>15</u> <del>5</del> kilograms.                  |
| 683 | 893.135 (1) (k) 2.a. | 1st | Trafficking in Phenethylamines, <u>30</u> <del>10</del> grams or more, less than 200 grams.   |
| 684 | 893.1351 (2)         | 2nd | Possession of place for trafficking in or manufacturing of controlled substance.  |
| 685 | 896.101 (5) (a)      | 3rd | Money laundering, financial transactions exceeding \$300 but less than \$20,000.  |

HB 561

2012

896.104(4)(a)1.      3rd      Structuring transactions to evade  
reporting or registration requirements,  
financial transactions exceeding \$300  
but less than \$20,000.

943.0435(4)(c)      2nd      Sexual offender vacating permanent  
residence; failure to comply with  
reporting requirements.

943.0435(8)      2nd      Sexual offender; remains in state after  
indicating intent to leave; failure to  
comply with reporting requirements.

943.0435(9)(a)      3rd      Sexual offender; failure to comply with  
reporting requirements.

943.0435(13)      3rd      Failure to report or providing false  
information about a sexual offender;  
harbor or conceal a sexual offender.

943.0435(14)      3rd      Sexual offender; failure to report and  
reregister; failure to respond to  
address verification.

944.607(9)      3rd      Sexual offender; failure to comply with  
reporting requirements.

HB 561

2012

944.607(10)(a)      3rd      Sexual offender; failure to submit to  
the taking of a digitized photograph.

944.607(12)      3rd      Failure to report or providing false  
information about a sexual offender;  
harbor or conceal a sexual offender.

944.607(13)      3rd      Sexual offender; failure to report and  
reregister; failure to respond to  
address verification.

985.4815(10)      3rd      Sexual offender; failure to submit to  
the taking of a digitized photograph.

985.4815(12)      3rd      Failure to report or providing false  
information about a sexual offender;  
harbor or conceal a sexual offender.

985.4815(13)      3rd      Sexual offender; failure to report and  
reregister; failure to respond to  
address verification.

(h)      LEVEL 8

|         |        |             |
|---------|--------|-------------|
| Florida | Felony |             |
| Statute | Degree | Description |

HB 561

2012

|     |                         |     |   |
|-----|-------------------------|-----|---|
| 702 | 316.193<br>(3) (c) 3.a. | 2nd | DUI manslaughter.   |
| 703 | 316.1935 (4) (b)        | 1st | Aggravated fleeing or attempted eluding<br>with serious bodily injury or death.   |
| 704 | 327.35 (3) (c) 3.       | 2nd | Vessel BUI manslaughter.  |
| 705 | 499.0051 (7)            | 1st | Knowing trafficking in contraband<br>prescription drugs.  |
| 706 | 499.0051 (8)            | 1st | Knowing forgery of prescription labels<br>or prescription drug labels.  |
| 707 | 560.123 (8) (b) 2.      | 2nd | Failure to report currency or payment<br>instruments totaling or exceeding<br>\$20,000, but less than \$100,000 by<br>money transmitter.                |
| 708 | 560.125 (5) (b)         | 2nd | Money transmitter business by<br>unauthorized person, currency or<br>payment instruments totaling or<br>exceeding \$20,000, but less than<br>\$100,000. |
|     | 655.50 (10) (b) 2.      | 2nd | Failure to report financial<br>transactions totaling or exceeding   |

HB 561

2012

\$20,000, but less than \$100,000 by  
financial institutions.

777.03(2)(a)      1st      Accessory after the fact, capital  
felony.

782.04(4)      2nd      Killing of human without design when  
engaged in act or attempt of any felony  
other than arson, sexual battery,  
robbery, burglary, kidnapping, aircraft  
piracy, or unlawfully discharging bomb.

782.051(2)      1st      Attempted felony murder while  
perpetrating or attempting to  
perpetrate a felony not enumerated in  
s. 782.04(3).

782.071(1)(b)      1st      Committing vehicular homicide and  
failing to render aid or give  
information.

782.072(2)      1st      Committing vessel homicide and failing  
to render aid or give information.

790.161(3)      1st      Discharging a destructive device which  
results in bodily harm or property  
damage.

HB 561

2012

|     |                 |          |   |
|-----|-----------------|----------|---|
| 716 | 794.011(5)      | 2nd      | Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury. |
| 717 | 794.08(3)       | 2nd      | Female genital mutilation, removal of a victim younger than 18 years of age from this state.                  |
| 718 | 800.04(4)       | 2nd      | Lewd or lascivious battery.   |
| 719 | 806.01(1)       | 1st      | Maliciously damage dwelling or structure by fire or explosive, believing person in structure.                 |
| 720 | 810.02(2)(a)    | 1st, PBL | Burglary with assault or battery.   |
| 721 | 810.02(2)(b)    | 1st, PBL | Burglary; armed with explosives or dangerous weapon.  |
| 722 | 810.02(2)(c)    | 1st      | Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.             |
| 723 | 812.014(2)(a)2. | 1st      | Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.                                 |

HB 561

2012

|     |                 |     |  |
|-----|-----------------|-----|--|
| 724 | 812.13 (2) (b)  | 1st | Robbery with a weapon.   |
| 725 | 812.135 (2) (c) | 1st | Home-invasion robbery, no firearm, deadly weapon, or other weapon.                                   |
| 726 | 817.568 (6)     | 2nd | Fraudulent use of personal identification information of an individual under the age of 18.          |
| 727 | 825.102 (2)     | 1st | Aggravated abuse of an elderly person or disabled adult.   |
| 728 | 825.1025 (2)    | 2nd | Lewd or lascivious battery upon an elderly person or disabled adult.                                 |
| 729 | 825.103 (2) (a) | 1st | Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.          |
| 730 | 837.02 (2)      | 2nd | Perjury in official proceedings relating to prosecution of a capital felony.                         |
| 731 | 837.021 (2)     | 2nd | Making contradictory statements in official proceedings relating to prosecution of a capital felony. |



HB 561

2012

|     |                       |     |   |
|-----|-----------------------|-----|---|
| 732 | 860.121(2)(c)         | 1st | Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.  |
| 733 | 860.16                | 1st | Aircraft piracy.  |
| 734 | 893.13(1)(b)          | 1st | Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).   |
| 735 | 893.13(2)(b)          | 1st | Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).  |
| 736 | 893.13(6)(c)          | 1st | Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).   |
| 737 | 893.135(1)(a)2.       | 1st | Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.  |
| 738 | 893.135<br>(1)(b)1.b. | 1st | Trafficking in cocaine, more than <u>400</u><br><del>200</del> grams, less than <u>4 kilograms</u> <del>400</del><br><del>grams</del> . |
| 739 | 893.135<br>(1)(c)1.b. | 1st | Trafficking in illegal drugs, more than 14 grams, less than 28 grams.   |

HB 561

2012

|     |                         |     |  |
|-----|-------------------------|-----|--|
| 740 | 893.135<br>(1) (d) 1.b. | 1st | Trafficking in phencyclidine, more than<br><u>400</u> <del>200</del> grams, less than <u>4 kilograms</u><br><del>400 grams</del> .           |
| 741 | 893.135<br>(1) (e) 1.b. | 1st | Trafficking in methaqualone, more than<br>5 kilograms, less than 25 kilograms.   |
| 742 | 893.135<br>(1) (f) 1.b. | 1st | Trafficking in amphetamine, more than<br><u>200</u> <del>28</del> grams, less than <u>400</u> <del>200</del> grams.                          |
| 743 | 893.135<br>(1) (g) 1.b. | 1st | Trafficking in flunitrazepam, 14 grams<br>or more, less than 28 grams.   |
| 744 | 893.135<br>(1) (h) 1.b. | 1st | Trafficking in gamma-hydroxybutyric<br>acid (GHB), <u>15</u> <del>5</del> kilograms or more,<br>less than <u>30</u> <del>10</del> kilograms. |
| 745 | 893.135<br>(1) (j) 1.b. | 1st | Trafficking in 1,4-Butanediol, <u>15</u> <del>5</del><br>kilograms or more, less than <u>30</u> <del>10</del><br>kilograms.                  |
| 746 | 893.135<br>(1) (k) 2.b. | 1st | Trafficking in Phenethylamines, 200<br>grams or more, less than 400 grams.   |
| 747 | 893.1351 (3)            | 1st | Possession of a place used to<br>manufacture controlled substance when<br>minor is present or resides there.                                 |

HB 561

2012

|     |                    |        |  |
|-----|--------------------|--------|--|
| 748 | 895.03 (1)         | 1st    | Use or invest proceeds derived from<br>pattern of racketeering activity.   |
| 749 | 895.03 (2)         | 1st    | Acquire or maintain through<br>racketeering activity any interest in<br>or control of any enterprise or real<br>property.  |
| 750 | 895.03 (3)         | 1st    | Conduct or participate in any<br>enterprise through pattern of<br>racketeering activity.   |
| 751 | 896.101 (5) (b)    | 2nd    | Money laundering, financial<br>transactions totaling or exceeding<br>\$20,000, but less than \$100,000.  |
| 752 | 896.104 (4) (a) 2. | 2nd    | Structuring transactions to evade<br>reporting or registration requirements,<br>financial transactions totaling or<br>exceeding \$20,000 but less than<br>\$100,000. |
| 753 | (i) LEVEL 9        |        |  |
| 754 | Florida            | Felony |  |
| 755 | Statute            | Degree | Description  |

HB 561

2012

|     |                         |     |  |
|-----|-------------------------|-----|--|
| 756 | 316.193<br>(3) (c) 3.b. | 1st | DUI manslaughter; failing to render aid or give information.   |
| 757 | 327.35 (3) (c) 3.b.     | 1st | BUI manslaughter; failing to render aid or give information.   |
| 758 | 409.920<br>(2) (b) 1.c. | 1st | Medicaid provider fraud; \$50,000 or more.   |
| 759 | 499.0051 (9)            | 1st | Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.                            |
| 760 | 560.123 (8) (b) 3.      | 1st | Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.              |
| 761 | 560.125 (5) (c)         | 1st | Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000. |
| 762 | 655.50 (10) (b) 3.      | 1st | Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.                   |
| 763 | 775.0844                | 1st | Aggravated white collar crime.   |

HB 561

2012

|     |                |         |  |
|-----|----------------|---------|--|
| 764 | 782.04(1)      | 1st     | Attempt, conspire, or solicit to<br>commit premeditated murder.  |
| 765 | 782.04(3)      | 1st,PBL | Accomplice to murder in connection<br>with arson, sexual battery, robbery,<br>burglary, and other specified<br>felonies. |
| 766 | 782.051(1)     | 1st     | Attempted felony murder while<br>perpetrating or attempting to<br>perpetrate a felony enumerated in s.<br>782.04(3).     |
| 767 | 782.07(2)      | 1st     | Aggravated manslaughter of an elderly<br>person or disabled adult.   |
| 768 | 787.01(1)(a)1. | 1st,PBL | Kidnapping; hold for ransom or reward<br>or as a shield or hostage.  |
| 769 | 787.01(1)(a)2. | 1st,PBL | Kidnapping with intent to commit or<br>facilitate commission of any felony.  |
| 770 | 787.01(1)(a)4. | 1st,PBL | Kidnapping with intent to interfere<br>with performance of any governmental<br>or political function.                    |
|     | 787.02(3)(a)   | 1st     | False imprisonment; child under age  |

HB 561

2012

13; perpetrator also commits  
aggravated child abuse, sexual  
battery, or lewd or lascivious  
battery, molestation, conduct, or  
exhibition.

771

790.161                      1st      Attempted capital destructive device  
   offense.

772

790.166(2)                  1st,PBL Possessing, selling, using, or  
   attempting to use a weapon of mass  
   destruction.

773

794.011(2)                  1st      Attempted sexual battery; victim less  
   than 12 years of age.

774

794.011(2)                  Life      Sexual battery; offender younger than  
   18 years and commits sexual battery on  
   a person less than 12 years.

775

794.011(4)                  1st      Sexual battery; victim 12 years or  
   older, certain circumstances.

776

794.011(8)(b)              1st      Sexual battery; engage in sexual  
   conduct with minor 12 to 18 years by  
   person in familial or custodial  
   authority.

777

HB 561

2012

|     |                 |             |  |
|-----|-----------------|-------------|--|
| 778 | 794.08 (2)      | 1st         | Female genital mutilation; victim<br>younger than 18 years of age.   |
| 779 | 800.04 (5) (b)  | Life        | Lewd or lascivious molestation; victim<br>less than 12 years; offender 18 years<br>or older.   |
| 780 | 812.13 (2) (a)  | 1st, PBL    | Robbery with firearm or other deadly<br>weapon.  |
| 781 | 812.133 (2) (a) | 1st, PBL    | Carjacking; firearm or other deadly<br>weapon.   |
| 782 | 812.135 (2) (b) | 1st         | Home-invasion robbery with weapon.   |
| 783 | 817.568 (7)     | 2nd,<br>PBL | Fraudulent use of personal<br>identification information of an<br>individual under the age of 18 by his<br>or her parent, legal guardian, or<br>person exercising custodial authority. |
| 784 | 827.03 (2)      | 1st         | Aggravated child abuse.  |
| 785 | 847.0145 (1)    | 1st         | Selling, or otherwise transferring<br>custody or control, of a minor.  |
|     | 847.0145 (2)    | 1st         | Purchasing, or otherwise obtaining   |

HB 561

2012

custody or control, of a minor.

786

859.01                      1st      Poisoning or introducing bacteria,  
radioactive materials, viruses, or  
chemical compounds into food, drink,  
medicine, or water with intent to kill  
or injure another person.

787

893.135                      1st      Attempted capital trafficking offense.

788

893.135 (1) (a) 3.            1st      Trafficking in cannabis, more than  
10,000 lbs.

789

893.135                      1st      Trafficking in cocaine, more than 4  
(1) (b) 1.c.                      kilograms ~~400 grams~~, less than 150  
kilograms.

790

893.135                      1st      Trafficking in illegal drugs, more  
(1) (c) 1.c.                      than 28 grams, less than 30 kilograms.

791

893.135                      1st      Trafficking in phencyclidine, more  
(1) (d) 1.c.                      than 4 kilograms ~~400 grams~~.

792

893.135                      1st      Trafficking in methaqualone, more than  
(1) (e) 1.c.                      25 kilograms.

793

893.135                      1st      Trafficking in amphetamine, more than



HB 561

2012

(1) (f) 1.c. 400 ~~200~~ grams.

|              |     |   |
|--------------|-----|---|
| 893.135      | 1st | Trafficking in gamma-hydroxybutyric acid (GHB), 30 <del>to</del> kilograms or more. |
| (1) (h) 1.c. |     |   |

893.135 1st Trafficking in 1,4-Butanediol, 30 to  
(1)(j)1.c. kilograms or more.

893.135 1st Trafficking in Phenethylamines, 400  
(1) (k)2.c. grams or more.

|               |     |  |
|---------------|-----|--|
| 896.101(5)(c) | 1st | Money laundering, financial instruments totaling or exceeding \$100,000. |
|---------------|-----|--|

|                 |     |   |
|-----------------|-----|---|
| 896.104(4)(a)3. | 1st | Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000. |
|-----------------|-----|---|

Section 3. For the purpose of incorporating the amendments made by this act to section 893.135, Florida Statutes, in a reference thereto, paragraph (a) of subsection (2) of section 775.087, Florida Statutes, is reenacted to read:

775.087 Possession or use of weapon; aggravated battery;  
felony reclassification; minimum sentence.—

(2) (a) 1. Any person who is convicted of a felony or an attempt to commit a felony, regardless of whether the use of a

HB 561

2012

808 weapon is an element of the felony, and the conviction was for:

- 809 a. Murder;
- 810 b. Sexual battery;
- 811 c. Robbery;
- 812 d. Burglary;
- 813 e. Arson;
- 814 f. Aggravated assault;
- 815 g. Aggravated battery;
- 816 h. Kidnapping;
- 817 i. Escape;
- 818 j. Aircraft piracy;
- 819 k. Aggravated child abuse;
- 820 l. Aggravated abuse of an elderly person or disabled  
821 adult;
- 822 m. Unlawful throwing, placing, or discharging of a  
823 destructive device or bomb;
- 824 n. Carjacking;
- 825 o. Home-invasion robbery;
- 826 p. Aggravated stalking;
- 827 q. Trafficking in cannabis, trafficking in cocaine,  
828 capital importation of cocaine, trafficking in illegal drugs,  
829 capital importation of illegal drugs, trafficking in  
830 phencyclidine, capital importation of phencyclidine, trafficking  
831 in methaqualone, capital importation of methaqualone,  
832 trafficking in amphetamine, capital importation of amphetamine,  
833 trafficking in flunitrazepam, trafficking in gamma-  
834 hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,  
835 trafficking in Phenethylamines, or other violation of s.

HB 561

2012

893.135(1); or

r. Possession of a firearm by a felon

and during the commission of the offense, such person actually possessed a "firearm" or "destructive device" as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 10 years, except that a person who is convicted for aggravated assault, possession of a firearm by a felon, or burglary of a conveyance shall be sentenced to a minimum term of imprisonment of 3 years if such person possessed a "firearm" or "destructive device" during the commission of the offense.

2. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs (a)1.a.-q., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a "firearm" or "destructive device" as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

3. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs (a)1.a.-q., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a "firearm" or "destructive device" as defined in s. 790.001 and, as the result of the discharge, death or great bodily harm was inflicted upon any person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.

HB 561

2012

Section 4. For the purpose of incorporating the amendments made by this act to section 893.135, Florida Statutes, in references thereto, paragraph (a) of subsection (1) and subsections (3) and (4) of section 782.04, Florida Statutes, are reenacted to read:

782.04 Murder.—

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

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

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

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

b. Arson,

c. Sexual battery,

d. Robbery,

e. Burglary,

f. Kidnapping,

g. Escape,

h. Aggravated child abuse,

i. Aggravated abuse of an elderly person or disabled adult,

j. Aircraft piracy,

k. Unlawful throwing, placing, or discharging of a destructive device or bomb,

l. Carjacking,

m. Home-invasion robbery,

n. Aggravated stalking,

o. Murder of another human being,

HB 561

2012

892 p. Resisting an officer with violence to his or her  
893 person,

894 q. Felony that is an act of terrorism or is in furtherance  
895 of an act of terrorism; or

896 3. Which resulted from the unlawful distribution of any  
897 substance controlled under s. 893.03(1), cocaine as described in  
898 s. 893.03(2)(a)4., opium or any synthetic or natural salt,  
899 compound, derivative, or preparation of opium, or methadone by a  
900 person 18 years of age or older, when such drug is proven to be  
901 the proximate cause of the death of the user,

902  
903 is murder in the first degree and constitutes a capital felony,  
904 punishable as provided in s. 775.082.

905 (3) When a person is killed in the perpetration of, or in  
906 the attempt to perpetrate, any:

- 907 (a) Trafficking offense prohibited by s. 893.135(1),  
908 (b) Arson,  
909 (c) Sexual battery,  
910 (d) Robbery,  
911 (e) Burglary,  
912 (f) Kidnapping,  
913 (g) Escape,  
914 (h) Aggravated child abuse,  
915 (i) Aggravated abuse of an elderly person or disabled  
916 adult,  
917 (j) Aircraft piracy,  
918 (k) Unlawful throwing, placing, or discharging of a  
919 destructive device or bomb,

HB 561

2012

(l) Carjacking,  
(m) Home-invasion robbery,  
(n) Aggravated stalking,  
(o) Murder of another human being,  
(p) Resisting an officer with violence to his or her  
person, or  
(q) Felony that is an act of terrorism or is in  
furtherance of an act of terrorism,  
by a person other than the person engaged in the perpetration of  
or in the attempt to perpetrate such felony, the person  
perpetrating or attempting to perpetrate such felony is guilty  
of murder in the second degree, which constitutes a felony of  
the first degree, punishable by imprisonment for a term of years  
not exceeding life or as provided in s. 775.082, s. 775.083, or  
s. 775.084.

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

(a) Trafficking offense prohibited by s. 893.135(1),  
(b) Arson,  
(c) Sexual battery,  
(d) Robbery,  
(e) Burglary,  
(f) Kidnapping,  
(g) Escape,  
(h) Aggravated child abuse,

HB 561

2012

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

(j) Aircraft piracy,

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

(l) Unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

(m) Carjacking,

(n) Home-invasion robbery,

(o) Aggravated stalking,

(p) Murder of another human being,

(q) Resisting an officer with violence to his or her person, or

(r) Felony that is an act of terrorism or is in furtherance of an act of terrorism,

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

Section 5. Section 893.101, Florida Statutes, is repealed.

Section 6. This act shall take effect July 1, 2012.