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1                   A bill to be entitled  
2     An act relating to the sentencing of inmates; amending s.  
3     893.135, F.S.; removing all references to imposing  
4     mandatory minimum sentences for defendants convicted of  
5     trafficking in controlled substances; defining the terms  
6     "department" and "nonviolent offender"; directing the  
7     Department of Corrections to develop and administer a  
8     reentry program for nonviolent offenders which is intended  
9     to divert nonviolent offenders from long periods of  
10    incarceration; requiring that the program include  
11    intensive substance abuse treatment and rehabilitative  
12    programming; providing for the minimum length of service  
13    in the program; providing that any portion of a sentence  
14    before placement in the program does not count as progress  
15    toward program completion; specifying eligibility criteria  
16    for a nonviolent offender to be placed into the reentry  
17    program; directing the department to notify the nonviolent  
18    offender's sentencing court to obtain approval before the  
19    nonviolent offender is placed into the reentry program;  
20    requiring the department to notify the state attorney;  
21    authorizing the state attorney to file objections to  
22    placing the offender into the reentry program within a  
23    specified period; requiring the sentencing court to notify  
24    the department of the court's decision to approve or  
25    disapprove the requested placement within a specified  
26    period; providing that failure of the court to timely  
27    notify the department of the court's decision constitutes  
28    approval by the requested placement; requiring the

29 nonviolent offender to undergo an education assessment and  
30 a full substance abuse assessment if admitted into the  
31 reentry program; requiring the offender to be enrolled in  
32 an adult education program in specified circumstances;  
33 requiring that assessments of vocational skills and future  
34 career education be provided to the offender; requiring  
35 that certain reevaluation be made periodically; providing  
36 that the nonviolent offender is subject to the  
37 disciplinary rules of the department; specifying the  
38 reasons for which the offender may be terminated from the  
39 reentry program; requiring that the department submit a  
40 report to the sentencing court at least 30 days before the  
41 nonviolent offender is scheduled to complete the reentry  
42 program; setting forth the issues to be addressed in the  
43 report; requiring the sentencing court to issue an order  
44 modifying the sentence imposed and place the nonviolent  
45 offender on drug offender probation if the nonviolent  
46 offender's performance is satisfactory; authorizing the  
47 court to revoke probation and impose the original sentence  
48 in specified circumstances; authorizing the court to  
49 require the offender to complete a postadjudicatory drug  
50 court program in specified circumstances; directing the  
51 department to implement the reentry program using  
52 available resources; requiring the department to submit an  
53 annual report to the Governor and Legislature detailing  
54 the extent of implementation of the reentry program and  
55 outlining future goals and recommendations; authorizing  
56 the department to enter into contracts with qualified

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57 individuals, agencies, or corporations for services for  
58 the reentry program; authorizing the department to impose  
59 administrative or protective confinement as necessary;  
60 authorizing the department to establish a system of  
61 incentives within the reentry program which the department  
62 may use to promote participation in rehabilitative  
63 programs and the orderly operation of institutions and  
64 facilities; directing the department to develop a system  
65 for tracking recidivism, including, but not limited to,  
66 rearrests and recommitment of nonviolent offenders who  
67 successfully complete the reentry program, and to report  
68 on recidivism in its annual report of the program;  
69 directing the department to adopt rules; providing an  
70 effective date.

71  
72 Be It Enacted by the Legislature of the State of Florida:

73  
74 Section 1. Section 893.135, Florida Statutes, is amended  
75 to read:

76 893.135 Trafficking; ~~mandatory sentences;~~ suspension or  
77 reduction of sentences; conspiracy to engage in trafficking.—

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

80 (a) Any person who knowingly sells, purchases,  
81 manufactures, delivers, or brings into this state, or who is  
82 knowingly in actual or constructive possession of, in excess of  
83 25 pounds of cannabis, or 300 or more cannabis plants, commits a  
84 felony of the first degree, which felony shall be known as

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85 "trafficking in cannabis," punishable as provided in s. 775.082,  
86 s. 775.083, or s. 775.084. If the quantity of cannabis involved:

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

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

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

101  
102 For the purpose of this paragraph, a plant, including, but not  
103 limited to, a seedling or cutting, is a "cannabis plant" if it  
104 has some readily observable evidence of root formation, such as  
105 root hairs. To determine if a piece or part of a cannabis plant  
106 severed from the cannabis plant is itself a cannabis plant, the  
107 severed piece or part must have some readily observable evidence  
108 of root formation, such as root hairs. Callous tissue is not  
109 readily observable evidence of root formation. The viability and  
110 sex of a plant and the fact that the plant may or may not be a  
111 dead harvested plant are not relevant in determining if the  
112 plant is a "cannabis plant" or in the charging of an offense

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under this paragraph. Upon conviction, the court shall impose the longest term of imprisonment provided for in this paragraph.

(b)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 cocaine, as described in s. 893.03(2)(a)4., or of any mixture containing cocaine, but less than 150 kilograms of cocaine or any such mixture, commits a felony of the first degree, which felony shall be known as "trafficking in cocaine," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 28 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 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, but less than 150 kilograms, such person shall be ordered ~~sentenced to a mandatory minimum term of imprisonment of 15 calendar years and~~ pay a fine of \$250,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 150 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., commits the first degree felony of trafficking in cocaine. ~~A person who has been convicted of the first degree felony of trafficking in~~

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~~cocaine 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 cocaine, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

3. Any person who knowingly brings into this state 300 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., and who knows that the probable result of such importation would be the death of any person, commits capital importation of cocaine, 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 sentenced to pay the maximum fine provided under subparagraph 1.

(c)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is

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169 knowingly in actual or constructive possession of, 4 grams or  
170 more of any morphine, opium, oxycodone, hydrocodone,  
171 hydromorphone, or any salt, derivative, isomer, or salt of an  
172 isomer thereof, including heroin, as described in s.  
173 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more  
174 of any mixture containing any such substance, but less than 30  
175 kilograms of such substance or mixture, commits a felony of the  
176 first degree, which felony shall be known as "trafficking in  
177 illegal drugs," punishable as provided in s. 775.082, s.  
178 775.083, or s. 775.084. If the quantity involved:

179 a. Is 4 grams or more, but less than 14 grams, such person  
180 shall be ~~sentenced to a mandatory minimum term of imprisonment~~  
181 ~~of 3 years, and the defendant shall be ordered to pay a fine of~~  
182 \$50,000.

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

187 c. Is 28 grams or more, but less than 30 kilograms, such  
188 person shall be ordered ~~sentenced to a mandatory minimum term of~~  
189 ~~imprisonment of 25 calendar years and~~ pay a fine of \$500,000.

190 2. Any person who knowingly sells, purchases,  
191 manufactures, delivers, or brings into this state, or who is  
192 knowingly in actual or constructive possession of, 30 kilograms  
193 or more of any morphine, opium, oxycodone, hydrocodone,  
194 hydromorphone, or any salt, derivative, isomer, or salt of an  
195 isomer thereof, including heroin, as described in s.  
196 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or

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197 more of any mixture containing any such substance, commits the  
198 first degree felony of trafficking in illegal drugs. ~~A person~~  
199 ~~who has been convicted of the first degree felony of trafficking~~  
200 ~~in illegal drugs under this subparagraph shall be punished by~~  
201 ~~life imprisonment and is ineligible for any form of~~  
202 ~~discretionary early release except pardon or executive clemency~~  
203 ~~or conditional medical release under s. 947.149.~~ However, if the  
204 court determines that, in addition to committing any act  
205 specified in this paragraph:

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

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

212  
213 such person commits the capital felony of trafficking in illegal  
214 drugs, punishable as provided in ss. 775.082 and 921.142. Any  
215 person sentenced for a capital felony under this paragraph shall  
216 also be sentenced to pay the maximum fine provided under  
217 subparagraph 1.

218       3. Any person who knowingly brings into this state 60  
219 kilograms or more of any morphine, opium, oxycodone,  
220 hydrocodone, hydromorphone, or any salt, derivative, isomer, or  
221 salt of an isomer thereof, including heroin, as described in s.  
222 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or  
223 more of any mixture containing any such substance, and who knows  
224 that the probable result of such importation would be the death



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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 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 28 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 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 ordered ~~sentenced to a mandatory minimum term of imprisonment of 15 calendar years and~~ pay a fine of \$250,000.

2. Any person who knowingly brings into this state 800 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), and who knows that the probable result of such importation would be the death

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of any person commits capital importation of phencyclidine, 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 sentenced to pay the maximum fine provided under subparagraph 1.

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

a. Is 200 grams or more, but less than 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 5 kilograms or more, but less than 25 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 25 kilograms or more, such person shall be ordered ~~sentenced to a mandatory minimum term of imprisonment of 15 calendar years and~~ 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

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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 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, 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 14 grams or more, but less than 28 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 28 grams or more, but less than 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 200 grams or more, such person shall be ordered ~~sentenced to a mandatory minimum term of imprisonment of 15 calendar years and~~ pay a fine of \$250,000.

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2. Any person who knowingly manufactures or brings into this state 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 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 more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits a felony of the first degree, which felony shall be known as "trafficking in flunitrazepam," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 4 grams or more but less than 14 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 14 grams or more but less than 28 grams, such person shall be ~~sentenced to a mandatory minimum term of imprisonment~~

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337 ~~of 7 years, and the defendant shall be~~ ordered to pay a fine of  
338 \$100,000.

339 c. Is 28 grams or more but less than 30 kilograms, such  
340 person shall be ordered ~~sentenced to a mandatory minimum term of~~  
341 ~~imprisonment of 25 calendar years and~~ pay a fine of \$500,000.

342 2. Any person who knowingly sells, purchases,  
343 manufactures, delivers, or brings into this state or who is  
344 knowingly in actual or constructive possession of 30 kilograms  
345 or more of flunitrazepam or any mixture containing flunitrazepam  
346 as described in s. 893.03(1)(a) commits the first degree felony  
347 of trafficking in flunitrazepam. ~~A person who has been convicted~~  
348 ~~of the first degree felony of trafficking in flunitrazepam under~~  
349 ~~this subparagraph shall be punished by life imprisonment and is~~  
350 ~~ineligible for any form of discretionary early release except~~  
351 ~~pardon or executive clemency or conditional medical release~~  
352 ~~under s. 947.149.~~ However, if the court determines that, in  
353 addition to committing any act specified in this paragraph:

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

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

360  
361 such person commits the capital felony of trafficking in  
362 flunitrazepam, punishable as provided in ss. 775.082 and  
363 921.142. Any person sentenced for a capital felony under this  
364 paragraph shall also be sentenced to pay the maximum fine

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provided under subparagraph 1.

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

a. Is 1 kilogram or more but less than 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 5 kilograms or more but less than 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 10 kilograms or more, such person shall be ordered ~~sentenced to a mandatory minimum term of imprisonment of 15 calendar years and~~ pay a fine of \$250,000.

2. Any person who knowingly manufactures or brings into this state 150 kilograms or more of gamma-hydroxybutyric acid (GHB), as described in s. 893.03(1)(d), or any mixture containing gamma-hydroxybutyric acid (GHB), 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 gamma-hydroxybutyric acid (GHB), a capital felony

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393 punishable as provided in ss. 775.082 and 921.142. Any person  
394 sentenced for a capital felony under this paragraph shall also  
395 be sentenced to pay the maximum fine provided under subparagraph  
396 1.

397 (i)1. Any person who knowingly sells, purchases,  
398 manufactures, delivers, or brings into this state, or who is  
399 knowingly in actual or constructive possession of, 1 kilogram or  
400 more of gamma-butyrolactone (GBL), as described in s.  
401 893.03(1)(d), or any mixture containing gamma-butyrolactone  
402 (GBL), commits a felony of the first degree, which felony shall  
403 be known as "trafficking in gamma-butyrolactone (GBL),"   
404 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
405 If the quantity involved:

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

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

414 c. Is 10 kilograms or more, such person shall be ordered  
415 ~~sentenced to a mandatory minimum term of imprisonment of 15~~  
416 ~~calendar years and~~ pay a fine of \$250,000.

417 2. Any person who knowingly manufactures or brings into  
418 the state 150 kilograms or more of gamma-butyrolactone (GBL), as  
419 described in s. 893.03(1)(d), or any mixture containing gamma-  
420 butyrolactone (GBL), and who knows that the probable result of

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such manufacture or importation would be the death of any person commits capital manufacture or importation of gamma-butyrolactone (GBL), 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 sentenced to pay the maximum fine provided under subparagraph 1.

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

a. Is 1 kilogram or more, but less than 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 5 kilograms or more, but less than 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 10 kilograms or more, such person shall be ordered ~~sentenced to a mandatory minimum term of imprisonment of 15 calendar years and~~ 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,



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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 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. 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-methylenedioxymphetamine;
- h. 5-Methoxy-3,4-methylenedioxymphetamine;
- i. 4-methoxyamphetamine;
- j. 4-methoxymphetamine;
- 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,

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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 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 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 ordered ~~sentenced to a mandatory minimum term of imprisonment of 15 calendar years and~~ 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-methylenedioxymphetamine;
- h. 5-Methoxy-3,4-methylenedioxymphetamine;

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- 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 would be the death of any person commits capital manufacture or importation of Phenethylamines, 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 sentenced to pay the maximum fine provided under subparagraph 1.

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

a. Is 1 gram or more, but less than 5 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~~

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533 \$50,000.

534 b. Is 5 grams or more, but less than 7 grams, such person  
535 shall be ~~sentenced to a mandatory minimum term of imprisonment~~  
536 ~~of 7 years, and the defendant shall be~~ ordered to pay a fine of  
537 \$100,000.

538 c. Is 7 grams or more, such person shall be ordered  
539 ~~sentenced to a mandatory minimum term of imprisonment of 15~~  
540 ~~calendar years and~~ pay a fine of \$500,000.

541 2. Any person who knowingly manufactures or brings into  
542 this state 7 grams or more of lysergic acid diethylamide (LSD)  
543 as described in s. 893.03(1)(c), or any mixture containing  
544 lysergic acid diethylamide (LSD), and who knows that the  
545 probable result of such manufacture or importation would be the  
546 death of any person commits capital manufacture or importation  
547 of lysergic acid diethylamide (LSD), a capital felony punishable  
548 as provided in ss. 775.082 and 921.142. Any person sentenced for  
549 a capital felony under this paragraph shall also be sentenced to  
550 pay the maximum fine provided under subparagraph 1.

551 (2) A person acts knowingly under subsection (1) if that  
552 person intends to sell, purchase, manufacture, deliver, or bring  
553 into this state, or to actually or constructively possess, any  
554 of the controlled substances listed in subsection (1),  
555 regardless of which controlled substance listed in subsection  
556 (1) is in fact sold, purchased, manufactured, delivered, or  
557 brought into this state, or actually or constructively  
558 possessed.

559 (3) Notwithstanding the provisions of s. 948.01, with  
560 respect to any person who is found to have violated this

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561 section, adjudication of guilt or imposition of sentence shall  
562 not be suspended, deferred, or withheld, ~~nor shall such person~~  
563 ~~be eligible for parole prior to serving the mandatory minimum~~  
564 ~~term of imprisonment prescribed by this section. A person~~  
565 ~~sentenced to a mandatory minimum term of imprisonment under this~~  
566 ~~section is not eligible for any form of discretionary early~~  
567 ~~release, except pardon or executive clemency or conditional~~  
568 ~~medical release under s. 947.149, prior to serving the mandatory~~  
569 ~~minimum term of imprisonment.~~

570 (4) The state attorney may move the sentencing court to  
571 reduce or suspend the sentence of any person who is convicted of  
572 a violation of this section and who provides substantial  
573 assistance in the identification, arrest, or conviction of any  
574 of that person's accomplices, accessories, coconspirators, or  
575 principals or of any other person engaged in trafficking in  
576 controlled substances. The arresting agency shall be given an  
577 opportunity to be heard in aggravation or mitigation in  
578 reference to any such motion. Upon good cause shown, the motion  
579 may be filed and heard in camera. The judge hearing the motion  
580 may reduce or suspend, defer, or withhold the sentence or  
581 adjudication of guilt if the judge finds that the defendant  
582 rendered such substantial assistance.

583 (5) Any person who agrees, conspires, combines, or  
584 confederates with another person to commit any act prohibited by  
585 subsection (1) commits a felony of the first degree and is  
586 punishable as if he or she had actually committed such  
587 prohibited act. Nothing in this subsection shall be construed to  
588 prohibit separate convictions and sentences for a violation of

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589 this subsection and any violation of subsection (1).

590 (6) A mixture, as defined in s. 893.02, containing any  
591 controlled substance described in this section includes, but is  
592 not limited to, a solution or a dosage unit, including but not  
593 limited to, a pill or tablet, containing a controlled substance.  
594 For the purpose of clarifying legislative intent regarding the  
595 weighing of a mixture containing a controlled substance  
596 described in this section, the weight of the controlled  
597 substance is the total weight of the mixture, including the  
598 controlled substance and any other substance in the mixture. If  
599 there is more than one mixture containing the same controlled  
600 substance, the weight of the controlled substance is calculated  
601 by aggregating the total weight of each mixture.

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

609 Section 2. Nonviolent offender reentry program.—

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

611 (a) "Department" means the Department of Corrections.

612 (b) "Nonviolent offender" means an offender who has:

613 1. Been convicted of a third-degree felony offense that is  
614 not a forcible felony as defined in s. 776.08, Florida Statutes;  
615 and

616 2. Not been convicted of any offense that requires a

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617 person to register as a sexual offender pursuant to s. 943.0435,  
618 Florida Statutes.

619 (2) (a) The department shall develop and administer a  
620 reentry program for nonviolent offenders. The reentry program  
621 must include prison-based substance abuse treatment, general  
622 education development and adult basic education courses,  
623 vocational training, training in decisionmaking and personal  
624 development, and other rehabilitation programs.

625 (b) The reentry program is intended to divert nonviolent  
626 offenders from long periods of incarceration when a reduced  
627 period of incarceration followed by participation in intensive  
628 substance abuse treatment and rehabilitative programming could  
629 produce the same deterrent effect, rehabilitate the offender,  
630 and reduce recidivism.

631 (c) The nonviolent offender shall serve at least 120 days  
632 in the reentry program. The offender may not count any portion  
633 of his or her sentence served before placement in the reentry  
634 program as progress toward program completion.

635 (d) A reentry program may be operated in a secure area in  
636 or adjacent to an adult institution.

637 (3) (a) Upon receiving a potential reentry program  
638 participant, the department shall screen the nonviolent offender  
639 for eligibility criteria to participate in the reentry program.  
640 In order to participate, a nonviolent offender must have served  
641 at least one-half of his or her original sentence and must have  
642 been identified as having a need for substance abuse treatment.  
643 When screening a nonviolent offender, the department shall  
644 consider the offender's criminal history and the possible

645 rehabilitative benefits that substance abuse treatment,  
646 educational programming, vocational training, and other  
647 rehabilitative programming might have on the offender.

648 (b) If a nonviolent offender meets the eligibility  
649 criteria and space is available in the reentry program, the  
650 department shall request the sentencing court to approve the  
651 offender's participation in the reentry program.

652 (c)1. The department shall notify the state attorney that  
653 the offender is being considered for placement in the reentry  
654 program. The notice must explain to the state attorney that a  
655 proposed reduced period of incarceration, followed by  
656 participation in substance abuse treatment and other  
657 rehabilitative programming, could produce the same deterrent  
658 effect otherwise expected from a lengthy incarceration.

659 2. The notice must also state that the state attorney may  
660 notify the sentencing court in writing of any objection the  
661 state attorney might have if the nonviolent offender is placed  
662 in the reentry program. The state attorney must notify the  
663 sentencing court of his or her objections within 14 days after  
664 receiving the notice.

665 (d) The sentencing court shall notify the department in  
666 writing of the court's decision to approve or disapprove the  
667 requested placement of the nonviolent offender no later than 28  
668 days after the court receives the department's request to place  
669 the offender in the reentry program. Failure to notify the  
670 department of the court's decision within the 28-day period  
671 constitutes approval to place the offender into the reentry  
672 program.



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673       (4) After the nonviolent offender is admitted into the  
674 reentry program, he or she shall undergo a full substance abuse  
675 assessment to determine his or her substance abuse treatment  
676 needs. The offender shall also have an educational assessment,  
677 which shall be accomplished using the Test of Adult Basic  
678 Education or any other testing instrument approved by the  
679 Department of Education. Each offender who has not obtained a  
680 high school diploma shall be enrolled in an adult education  
681 program designed to aid the offender in improving his or her  
682 academic skills and earn a high school diploma. Further  
683 assessments of the offender's vocational skills and future  
684 career education shall be provided to the offender as needed. A  
685 periodic reevaluation shall be made in order to assess the  
686 progress of each offender.

687       (5) (a) If a nonviolent offender becomes unmanageable, the  
688 department may revoke the offender's gain-time and place the  
689 offender in disciplinary confinement in accordance with  
690 department rule. Except as provided in paragraph (b), the  
691 offender shall be readmitted to the reentry program after  
692 completing the ordered discipline. Any period of time during  
693 which the offender is unable to participate in the reentry  
694 program shall be excluded from the specified time requirements  
695 in the reentry program.

696       (b) The department may terminate an offender from the  
697 reentry program if:

- 698       1. The offender commits or threatens to commit a violent  
699 act;  
700       2. The department determines that the offender is unable

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701 to participate in the reentry program due to the offender's  
702 medical condition;

703 3. The offender's sentence is modified or expires;

704 4. The department reassigns the offender's classification  
705 status; or

706 5. The department determines that removing the offender  
707 from the reentry program is in the best interest of the offender  
708 or the security of the institution.

709 (6) (a) The department shall submit a report to the court  
710 at least 30 days before the nonviolent offender is scheduled to  
711 complete the reentry program. The report must describe the  
712 offender's performance in the reentry program. If the  
713 performance is satisfactory, the court shall issue an order  
714 modifying the sentence imposed and place the offender on drug  
715 offender probation subject to the offender's successful  
716 completion of the remainder of the reentry program. The term of  
717 drug offender probation may include placement in a community  
718 residential or nonresidential substance abuse treatment facility  
719 under the jurisdiction of the department or the Department of  
720 Children and Family Services or any public or private entity  
721 providing such services. If the nonviolent offender violates the  
722 conditions of drug offender probation, the court may revoke  
723 probation and impose any sentence that it might have originally  
724 imposed.

725 (b) If an offender being released pursuant to paragraph  
726 (a) intends to reside in a county that has established a  
727 postadjudicatory drug court program as described in s. 397.334,  
728 Florida Statutes, the sentencing court may require the offender

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729 to successfully complete the postadjudicatory drug court program  
730 as a condition of drug offender probation. The original  
731 sentencing court shall relinquish jurisdiction of the offender's  
732 case to the postadjudicatory drug court program until the  
733 offender is no longer active in the program, the case is  
734 returned to the sentencing court due to the offender's  
735 termination from the program for failure to comply with the  
736 terms thereof, or the offender's sentence is completed. If  
737 transferred to a postadjudicatory drug court program, the  
738 offender shall comply with all conditions and orders of the  
739 program.

740 (7) The department shall implement the reentry program to  
741 the fullest extent feasible within available resources.

742 (8) The department shall submit an annual report to the  
743 Governor, the President of the Senate, and the Speaker of the  
744 House of Representatives detailing the extent of implementation  
745 of the reentry program and outlining future goals and any  
746 recommendation the department has for future legislative action.

747 (9) The department may enter into performance-based  
748 contracts with qualified individuals, agencies, or corporations  
749 for the provision of any or all of the services for the reentry  
750 program.

751 (10) A nonviolent offender in the reentry program is  
752 subject to rules of conduct established by the department and  
753 may have sanctions imposed, including loss of privileges,  
754 restrictions, disciplinary confinement, alteration of release  
755 plans, or other program modifications in keeping with the nature  
756 and gravity of the program violation. Administrative or

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757 protective confinement, as necessary, may be imposed.

758 (11) The department may establish a system of incentives  
759 within the reentry program which the department may use to  
760 promote participation in rehabilitative programs and the orderly  
761 operation of institutions and facilities.

762 (12) The department shall develop a system for tracking  
763 recidivism, including, but not limited to, rearrests and  
764 recommitment of nonviolent offenders who successfully complete  
765 the reentry program, and shall report the recidivism rate in its  
766 annual report of the program.

767 (13) The department shall adopt rules pursuant to ss.  
768 120.536(1) and 120.54, Florida Statutes, to administer the  
769 reentry program.

770 Section 3. This act shall take effect October 1, 2011.