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1                   A bill to be entitled  
2     An act relating to the death penalty; amending s.  
3     775.082, F.S.; deleting provisions providing for the  
4     death penalty for capital felonies; deleting  
5     provisions relating to the effect of a declaration by  
6     a court of last resort that the death penalty in a  
7     capital felony is unconstitutional; amending ss. 27.51  
8     and 27.511, F.S.; deleting provisions relating to  
9     representation in death penalty cases; repealing ss.  
10    27.7001, 27.7002, 27.701, 27.702, 27.703, 27.704,  
11    27.705, 27.706, 27.707, 27.708, 27.7081, 27.7091,  
12    27.710, 27.711, and 27.715, F.S., relating to capital  
13    collateral representation; amending s. 119.071, F.S.;  
14    deleting a public records exemption relating to  
15    capital collateral proceedings; amending ss. 775.15  
16    and 790.161, F.S.; deleting provisions relating to the  
17    effect of a declaration by a court of last resort  
18    declaring that the death penalty in a capital felony  
19    is unconstitutional; repealing s. 913.13, F.S.,  
20    relating to jurors in capital cases; repealing s.  
21    921.137, F.S., relating to prohibiting the imposition  
22    of the death sentence upon a defendant with mental  
23    retardation; repealing s. 921.141, F.S., relating to  
24    determination of whether to impose a sentence of death  
25    or life imprisonment for a capital felony; repealing  
26    s. 921.142, F.S., relating to determination of whether  
27    to impose a sentence of death or life imprisonment for  
28    a capital drug trafficking felony; amending ss.

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782.04, 394.912 782.065, 794.011, and 893.135, F.S.;  
conforming provisions to changes made by the act;  
repealing ss. 922.052, 922.06, 922.07, 922.08,  
922.095, 922.10, 922.105, 922.108, 922.11, 922.111,  
922.12, 922.14, and 922.15, F.S., relating to issuance  
of warrant of execution, stay of execution of death  
sentence, proceedings when person under sentence of  
death appears to be insane, proceedings when person  
under sentence of death appears to be pregnant,  
grounds for death warrant, execution of death  
sentence, prohibition against reduction of death  
sentence as a result of determination that a method of  
execution is unconstitutional, sentencing orders in  
capital cases, regulation of execution, transfer to  
state prison for safekeeping before death warrant  
issued, return of warrant of execution issued by  
Governor, sentence of death unexecuted for  
unjustifiable reasons, and return of warrant of  
execution issued by Supreme Court, respectively;  
amending s. 924.055, F.S.; deleting provisions  
relating to legislative intent concerning appeals and  
postconviction proceedings in death penalty cases;  
repealing ss. 924.056 and 924.057, F.S., relating to  
commencement of capital postconviction actions for  
which sentence of death is imposed on or after January  
14, 2000, and limitation on postconviction cases in  
which the death sentence was imposed before January  
14, 2000, respectively; amending ss. 924.058 and

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924.059, F.S.; conforming provisions to changes made by the act; amending s. 925.11, F.S.; deleting provisions relating to preservation of DNA evidence in death penalty cases; amending s. 945.10, F.S.; deleting a public records exemption for the identity of executioners; providing an effective date.

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

Section 1. Subsections (1) and (2) of section 775.082, Florida Statutes, are amended to read:

775.082 Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.—

(1) A person who has been convicted of a capital felony shall be ~~punished by death if the proceeding held to determine sentence according to the procedure set forth in s. 921.141 results in findings by the court that such person shall be punished by death, otherwise such person shall be~~ punished by life imprisonment and shall be ineligible for parole.

~~(2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in subsection (1). No sentence of death shall be reduced as a result of a determination that a method of~~

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~~execution is held to be unconstitutional under the State  
Constitution or the Constitution of the United States.~~

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

27.51 Duties of public defender.—

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

(d) Sought by petition filed in such court to be  
involuntarily placed as a mentally ill person under part I of  
chapter 394, involuntarily committed as a sexually violent  
predator under part V of chapter 394, or involuntarily admitted  
to residential services as a person with developmental  
disabilities under chapter 393. A public defender shall not  
represent any plaintiff in a civil action brought under the  
Florida Rules of Civil Procedure, the Federal Rules of Civil  
Procedure, or the federal statutes, or represent a petitioner in  
a rule challenge under chapter 120, unless specifically  
authorized by statute; or

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

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

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

27.511 Offices of criminal conflict and civil regional  
counsel; legislative intent; qualifications; appointment;

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113 duties.—

114 (5) When the Office of the Public Defender, at any time  
115 during the representation of two or more defendants, determines  
116 that the interests of those accused are so adverse or hostile  
117 that they cannot all be counseled by the public defender or his  
118 or her staff without a conflict of interest, or that none can be  
119 counseled by the public defender or his or her staff because of  
120 a conflict of interest, and the court grants the public  
121 defender's motion to withdraw, the office of criminal conflict  
122 and civil regional counsel shall be appointed and shall provide  
123 legal services, without additional compensation, to any person  
124 determined to be indigent under s. 27.52, who is:

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

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

129 (f) ~~(g)~~ Seeking correction, reduction, or modification of a  
130 sentence under Rule 3.800, Florida Rules of Criminal Procedure,  
131 or seeking postconviction relief under Rule 3.850, Florida Rules  
132 of Criminal Procedure, if, in either case, the court determines  
133 that appointment of counsel is necessary to protect a person's  
134 due process rights.

135 (8) The public defender for the judicial circuit specified  
136 in s. 27.51(4) shall, after the record on appeal is transmitted  
137 to the appellate court by the office of criminal conflict and  
138 civil regional counsel which handled the trial and if requested  
139 by the regional counsel for the indicated appellate district,  
140 handle all circuit court appeals authorized pursuant to

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141 paragraph (5) (e) ~~(f)~~ within the state courts system and any  
142 authorized appeals to the federal courts required of the  
143 official making the request. If the public defender certifies to  
144 the court that the public defender has a conflict consistent  
145 with the criteria prescribed in s. 27.5303 and moves to  
146 withdraw, the regional counsel shall handle the appeal, unless  
147 the regional counsel has a conflict, in which case the court  
148 shall appoint private counsel pursuant to s. 27.40.

149 Section 4. Sections 27.7001, 27.7002, 27.701, 27.702,  
150 27.703, 27.704, 27.705, 27.706, 27.707, 27.708, 27.7081,  
151 27.7091, 27.710, 27.711, and 27.715, Florida Statutes, are  
152 repealed.

153 Section 5. Paragraph (d) of subsection (1) of section  
154 119.071, Florida Statutes, is amended to read:

155 119.071 General exemptions from inspection or copying of  
156 public records.—

157 (1) AGENCY ADMINISTRATION.—

158 (d)1. A public record that was prepared by an agency  
159 attorney (including an attorney employed or retained by the  
160 agency or employed or retained by another public officer or  
161 agency to protect or represent the interests of the agency  
162 having custody of the record) or prepared at the attorney's  
163 express direction, that reflects a mental impression,  
164 conclusion, litigation strategy, or legal theory of the attorney  
165 or the agency, and that was prepared exclusively for civil or  
166 criminal litigation or for adversarial administrative  
167 proceedings, or that was prepared in anticipation of imminent  
168 civil or criminal litigation or imminent adversarial

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169 administrative proceedings, is exempt from s. 119.07(1) and s.  
170 24(a), Art. I of the State Constitution until the conclusion of  
171 the litigation or adversarial administrative proceedings. ~~For~~  
172 ~~purposes of capital collateral litigation as set forth in s.~~  
173 ~~27.7001, the Attorney General's office is entitled to claim this~~  
174 ~~exemption for those public records prepared for direct appeal as~~  
175 ~~well as for all capital collateral litigation after direct~~  
176 ~~appeal until execution of sentence or imposition of a life~~  
177 ~~sentence.~~

178 2. This exemption is not waived by the release of such  
179 public record to another public employee or officer of the same  
180 agency or any person consulted by the agency attorney. When  
181 asserting the right to withhold a public record pursuant to this  
182 paragraph, the agency shall identify the potential parties to  
183 any such criminal or civil litigation or adversarial  
184 administrative proceedings. If a court finds that the document  
185 or other record has been improperly withheld under this  
186 paragraph, the party seeking access to such document or record  
187 shall be awarded reasonable attorney's fees and costs in  
188 addition to any other remedy ordered by the court.

189 Section 6. Subsection (1) of section 775.15, Florida  
190 Statutes, is amended to read:

191 775.15 Time limitations; general time limitations;  
192 exceptions.—

193 (1) A prosecution for a capital felony, a life felony, or  
194 a felony that resulted in a death may be commenced at any time.  
195 ~~If the death penalty is held to be unconstitutional by the~~  
196 ~~Florida Supreme Court or the United States Supreme Court, all~~

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~~crimes designated as capital felonies shall be considered life felonies for the purposes of this section, and prosecution for such crimes may be commenced at any time.~~

Section 7. Subsection (4) of section 790.161, Florida Statutes, is amended to read:

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

(4) If the act results in the death of another person, commits a capital felony, punishable as provided in s. 775.082. ~~In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment if convicted of murder in the first degree or of a capital felony under this subsection, and such person shall be ineligible for parole. No sentence of death shall be reduced as a result of a determination that a method of execution is held to be unconstitutional under the State Constitution or the Constitution of the United States.~~

Section 8. Section 913.13, Florida Statutes, is repealed.

Section 9. Section 921.137, Florida Statutes, is repealed.



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224       Section 10. Sections 921.141 and 921.142, Florida  
225 Statutes, are repealed.

226       Section 11. Subsection (1) of section 782.04, Florida  
227 Statutes, is amended to read:

228       782.04 Murder.—

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

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

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

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

235       2.b. Arson,

236       3.c. Sexual battery,

237       4.d. Robbery,

238       5.e. Burglary,

239       6.f. Kidnapping,

240       7.g. Escape,

241       8.h. Aggravated child abuse,

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

244       10.j. Aircraft piracy,

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

247       12.l. Carjacking,

248       13.m. Home-invasion robbery,

249       14.n. Aggravated stalking,

250       15.o. Murder of another human being,

251       16.p. Resisting an officer with violence to his or her

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person, or

17.~~4.~~ Felony that is an act of terrorism or is in furtherance of an act of terrorism; or

(c)~~3.~~ Which resulted from the unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or methadone 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,

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

~~(b) In all cases under this section, the procedure set forth in s. 921.141 shall be followed in order to determine sentence of death or life imprisonment.~~

Section 12. Paragraph (a) of subsection (9) of section 394.912, Florida Statutes, is amended to read:

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

(9) "Sexually violent offense" means:

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

Section 13. Subsection (1) of section 782.065, Florida Statutes, is amended to read:

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

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(1) The defendant committed murder in the first degree in violation of s. 782.04(1) and a death sentence was not imposed; murder in the second or third degree in violation of s.

782.04(2), (3), or (4); attempted murder in the first or second degree in violation of s. 782.04(1)(a) ~~782.04(1)(a)1.~~ or (2); or attempted felony murder in violation of s. 782.051; and

Section 14. Paragraph (a) of subsection (2) of section 794.011, Florida Statutes, is amended to read:

794.011 Sexual battery.—

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

Section 15. Paragraphs (b) through (l) of subsection (1) of section 893.135, Florida Statutes, are amended to read:

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

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

(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.

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308 If the quantity involved:

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

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

317 c. Is 400 grams or more, but less than 150 kilograms, such  
318 person shall be sentenced to a mandatory minimum term of  
319 imprisonment of 15 calendar years and pay a fine of \$250,000.

320 2. Any person who knowingly sells, purchases,  
321 manufactures, delivers, or brings into this state, or who is  
322 knowingly in actual or constructive possession of, 150 kilograms  
323 or more of cocaine, as described in s. 893.03(2)(a)4., commits  
324 the first degree felony of trafficking in cocaine. A person who  
325 has been convicted of the first degree felony of trafficking in  
326 cocaine under this subparagraph shall be punished by life  
327 imprisonment and is ineligible for any form of discretionary  
328 early release except pardon or executive clemency or conditional  
329 medical release under s. 947.149. However, if the court  
330 determines that, in addition to committing any act specified in  
331 this paragraph:

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

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336           b. The person's conduct in committing that act led to a  
337 natural, though not inevitable, lethal result,  
338  
339 such person commits the capital felony of trafficking in  
340 cocaine, punishable as provided in s. ss. 775.082 and 921.142.  
341 Any person sentenced for a capital felony under this paragraph  
342 shall also be sentenced to pay the maximum fine provided under  
343 subparagraph 1.

344           3. Any person who knowingly brings into this state 300  
345 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,  
346 and who knows that the probable result of such importation would  
347 be the death of any person, commits capital importation of  
348 cocaine, a capital felony punishable as provided in s. ss.  
349 775.082 and 921.142. Any person sentenced for a capital felony  
350 under this paragraph shall also be sentenced to pay the maximum  
351 fine provided under subparagraph 1.

352           (c)1. Any person who knowingly sells, purchases,  
353 manufactures, delivers, or brings into this state, or who is  
354 knowingly in actual or constructive possession of, 4 grams or  
355 more of any morphine, opium, oxycodone, hydrocodone,  
356 hydromorphone, or any salt, derivative, isomer, or salt of an  
357 isomer thereof, including heroin, as described in s.  
358 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more  
359 of any mixture containing any such substance, but less than 30  
360 kilograms of such substance or mixture, commits a felony of the  
361 first degree, which felony shall be known as "trafficking in  
362 illegal drugs," punishable as provided in s. 775.082, s.  
363 775.083, or s. 775.084. If the quantity involved:

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364           a. Is 4 grams or more, but less than 14 grams, such person  
365 shall be sentenced to a mandatory minimum term of imprisonment  
366 of 3 years, and the defendant shall be ordered to pay a fine of  
367 \$50,000.

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

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

375           2. Any person who knowingly sells, purchases,  
376 manufactures, delivers, or brings into this state, or who is  
377 knowingly in actual or constructive possession of, 30 kilograms  
378 or more of any morphine, opium, oxycodone, hydrocodone,  
379 hydromorphone, or any salt, derivative, isomer, or salt of an  
380 isomer thereof, including heroin, as described in s.  
381 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or  
382 more of any mixture containing any such substance, commits the  
383 first degree felony of trafficking in illegal drugs. A person  
384 who has been convicted of the first degree felony of trafficking  
385 in illegal drugs under this subparagraph shall be punished by  
386 life imprisonment and is ineligible for any form of  
387 discretionary early release except pardon or executive clemency  
388 or conditional medical release under s. 947.149. However, if the  
389 court determines that, in addition to committing any act  
390 specified in this paragraph:

391           a. The person intentionally killed an individual or

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392 counseled, commanded, induced, procured, or caused the  
393 intentional killing of an individual and such killing was the  
394 result; or

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

397  
398 such person commits the capital felony of trafficking in illegal  
399 drugs, punishable as provided in s. ss. 775.082 ~~and 921.142~~. Any  
400 person sentenced for a capital felony under this paragraph shall  
401 also be sentenced to pay the maximum fine provided under  
402 subparagraph 1.

403 3. Any person who knowingly brings into this state 60  
404 kilograms or more of any morphine, opium, oxycodone,  
405 hydrocodone, hydromorphone, or any salt, derivative, isomer, or  
406 salt of an isomer thereof, including heroin, as described in s.  
407 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or  
408 more of any mixture containing any such substance, and who knows  
409 that the probable result of such importation would be the death  
410 of any person, commits capital importation of illegal drugs, a  
411 capital felony punishable as provided in s. ss. 775.082 ~~and~~  
412 ~~921.142~~. Any person sentenced for a capital felony under this  
413 paragraph shall also be sentenced to pay the maximum fine  
414 provided under subparagraph 1.

415 (d)1. Any person who knowingly sells, purchases,  
416 manufactures, delivers, or brings into this state, or who is  
417 knowingly in actual or constructive possession of, 28 grams or  
418 more of phencyclidine or of any mixture containing  
419 phencyclidine, as described in s. 893.03(2)(b), commits a felony

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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 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 of any person commits capital importation of phencyclidine, a capital felony punishable as provided in s. 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



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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 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 of any person commits capital importation of methaqualone, a capital felony punishable as provided in s. 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

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476 mixture containing amphetamine or methamphetamine, or  
477 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine  
478 in conjunction with other chemicals and equipment utilized in  
479 the manufacture of amphetamine or methamphetamine, commits a  
480 felony of the first degree, which felony shall be known as  
481 "trafficking in amphetamine," punishable as provided in s.  
482 775.082, s. 775.083, or s. 775.084. If the quantity involved:

483       a. Is 14 grams or more, but less than 28 grams, such  
484 person shall be sentenced to a mandatory minimum term of  
485 imprisonment of 3 years, and the defendant shall be ordered to  
486 pay a fine of \$50,000.

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

491       c. Is 200 grams or more, such person shall be sentenced to  
492 a mandatory minimum term of imprisonment of 15 calendar years  
493 and pay a fine of \$250,000.

494       2. Any person who knowingly manufactures or brings into  
495 this state 400 grams or more of amphetamine, as described in s.  
496 893.03(2)(c)2., or methamphetamine, as described in s.  
497 893.03(2)(c)4., or of any mixture containing amphetamine or  
498 methamphetamine, or phenylacetone, phenylacetic acid,  
499 pseudoephedrine, or ephedrine in conjunction with other  
500 chemicals and equipment used in the manufacture of amphetamine  
501 or methamphetamine, and who knows that the probable result of  
502 such manufacture or importation would be the death of any person  
503 commits capital manufacture or importation of amphetamine, a

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capital felony punishable as provided in s. 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 of 7 years, and the defendant shall be ordered to pay a fine of \$100,000.

c. Is 28 grams or more but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and 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 flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits the first degree felony

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of trafficking in flunitrazepam. A person who has been convicted of the first degree felony of trafficking in flunitrazepam 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 flunitrazepam, punishable as provided in s. 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.

(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:

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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 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 punishable as provided in s. 893.03(1)(d) ~~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.

(i)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-butyrolactone (GBL), as described in s. 893.03(1)(d), or any mixture containing gamma-butyrolactone (GBL), commits a felony of the first degree, which felony shall

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be known as "trafficking in gamma-butyrolactone (GBL)," 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 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 the state 150 kilograms or more of gamma-butyrolactone (GBL), as described in s. 893.03(1)(d), or any mixture containing gamma-butyrolactone (GBL), 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-butyrolactone (GBL), a capital felony punishable as provided in s. 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

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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 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, 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 s. 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

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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,

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.



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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 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;
- 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,

individually or in any combination of or any mixture containing any substance listed in sub-subparagraphs a.-o., and who knows

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700 that the probable result of such manufacture or importation  
701 would be the death of any person commits capital manufacture or  
702 importation of Phenethylamines, a capital felony punishable as  
703 provided in s. ss. 775.082 and 921.142. Any person sentenced for  
704 a capital felony under this paragraph shall also be sentenced to  
705 pay the maximum fine provided under subparagraph 1.

706 (1)1. Any person who knowingly sells, purchases,  
707 manufactures, delivers, or brings into this state, or who is  
708 knowingly in actual or constructive possession of, 1 gram or  
709 more of lysergic acid diethylamide (LSD) as described in s.  
710 893.03(1)(c), or of any mixture containing lysergic acid  
711 diethylamide (LSD), commits a felony of the first degree, which  
712 felony shall be known as "trafficking in lysergic acid  
713 diethylamide (LSD)," punishable as provided in s. 775.082, s.  
714 775.083, or s. 775.084. If the quantity involved:

715 a. Is 1 gram or more, but less than 5 grams, such person  
716 shall be sentenced to a mandatory minimum term of imprisonment  
717 of 3 years, and the defendant shall be ordered to pay a fine of  
718 \$50,000.

719 b. Is 5 grams or more, but less than 7 grams, such person  
720 shall be sentenced to a mandatory minimum term of imprisonment  
721 of 7 years, and the defendant shall be ordered to pay a fine of  
722 \$100,000.

723 c. Is 7 grams or more, such person shall be sentenced to a  
724 mandatory minimum term of imprisonment of 15 calendar years and  
725 pay a fine of \$500,000.

726 2. Any person who knowingly manufactures or brings into  
727 this state 7 grams or more of lysergic acid diethylamide (LSD)

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as described in s. 893.03(1)(c), or any mixture containing lysergic acid diethylamide (LSD), 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 lysergic acid diethylamide (LSD), a capital felony punishable as provided in s. 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.

Section 16. Sections 922.052, 922.06, 922.07, 922.08, 922.095, 922.10, 922.105, 922.108, 922.11, 922.111, 922.12, 922.14, and 922.15, Florida Statutes, are repealed.

Section 17. Section 924.055, Florida Statutes, is amended to read:

924.055 Postconviction review in capital cases; legislative findings and intent.—

~~(1) It is the intent of the Legislature to reduce delays in capital cases and to ensure that all appeals and postconviction actions in capital cases are resolved within 5 years after the date a sentence of death is imposed in the circuit court. All capital postconviction actions must be filed as early as possible after the imposition of a sentence of death which may be during a direct appeal of the conviction and sentence. A person sentenced to death or that person's capital postconviction counsel must file any postconviction legal action in compliance with the statutes of limitation established in s. 924.056 and elsewhere in this chapter. Except as expressly allowed by s. 924.056(5), a person sentenced to death or that person's capital postconviction counsel may not file more than~~

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~~one postconviction action in a sentencing court and one appeal therefrom to the Florida Supreme Court, unless authorized by law.~~

~~(2)~~ It is the ~~further~~ intent of the Legislature that no state resources be expended in violation of this act. In the event that any state employee or party contracting with the state violates the provisions of this act, the Attorney General shall deliver to the Speaker of the House of Representatives and the President of the Senate a copy of any court pleading or order that describes or adjudicates a violation.

Section 18. Sections 924.056 and 924.057, Florida Statutes, are repealed.

Section 19. Subsection (1) of section 924.058, Florida Statutes, is amended to read:

924.058 Capital postconviction claims.—This section shall regulate the procedures in actions for capital postconviction relief commencing after the effective date of this act unless and until such procedures are revised by rule or rules adopted by the Florida Supreme Court which specifically reference this section.

(1) The defendant or the defendant's capital postconviction counsel shall not file more than one capital postconviction action in the sentencing court, one appeal therefrom in the Florida Supreme Court, and one original capital postconviction action alleging the ineffectiveness of direct appeal counsel in the Florida Supreme Court, ~~except as expressly allowed by s. 924.056(5).~~

Section 20. Subsection (8) of section 924.059, Florida

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Statutes, is amended to read:

924.059 Time limitations and judicial review in capital postconviction actions.—This section shall regulate the procedures in actions for capital postconviction relief commencing after the effective date of this act unless and until such procedures are revised by rule or rules adopted by the Florida Supreme Court which specifically reference this section.

(8) A capital postconviction action filed in violation of the time limitations provided by statute is barred, and all claims raised therein are waived. ~~A state court shall not consider any capital postconviction action filed in violation of s. 924.056 or s. 924.057.~~ The Attorney General shall deliver to the Governor, the President of the Senate, and the Speaker of the House of Representatives a copy of any pleading or order that alleges or adjudicates any violation of this provision.

Section 21. Subsection (4) of section 925.11, Florida Statutes, is amended to read:

925.11 Postsentencing DNA testing.—

(4) PRESERVATION OF EVIDENCE.—

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

~~(b) In a case in which the death penalty is imposed, the evidence shall be maintained for 60 days after execution of the~~

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812 ~~sentence. In all other cases, a governmental entity may dispose~~  
813 ~~of the physical evidence if the term of the sentence imposed in~~  
814 ~~the case has expired and no other provision of law or rule~~  
815 ~~requires that the physical evidence be preserved or retained.~~

816 Section 22. Paragraphs (g) and (h) of subsection (1) and  
817 subsection (2) of section 945.10, Florida Statutes, are amended  
818 to read:

819 945.10 Confidential information.—

820 (1) Except as otherwise provided by law or in this  
821 section, the following records and information held by the  
822 Department of Corrections are confidential and exempt from the  
823 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
824 Constitution:

825 ~~(g) Information which identifies an executioner, or any~~  
826 ~~person prescribing, preparing, compounding, dispensing, or~~  
827 ~~administering a lethal injection.~~

828 (g) ~~(h)~~ Records that are otherwise confidential or exempt  
829 from public disclosure by law.

830 (2) The records and information specified in subsection  
831 ~~paragraphs~~ (1) ~~(a)~~ ~~(h)~~ may be released as follows unless  
832 expressly prohibited by federal law:

833 (a) Information specified in paragraphs (1)(b), (d), and  
834 (f) to the Office of the Governor, the Legislature, the Parole  
835 Commission, the Department of Children and Family Services, a  
836 private correctional facility or program that operates under a  
837 contract, the Department of Legal Affairs, a state attorney, the  
838 court, or a law enforcement agency. A request for records or  
839 information pursuant to this paragraph need not be in writing.

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840           (b) Information specified in paragraphs (1)(c), (e), and  
841 (g)~~(h)~~ to the Office of the Governor, the Legislature, the  
842 Parole Commission, the Department of Children and Family  
843 Services, a private correctional facility or program that  
844 operates under contract, the Department of Legal Affairs, a  
845 state attorney, the court, or a law enforcement agency. A  
846 request for records or information pursuant to this paragraph  
847 must be in writing and a statement provided demonstrating a need  
848 for the records or information.

849           (c) Information specified in paragraph (1)(b) to an  
850 attorney representing an inmate under sentence of death, except  
851 those portions of the records containing a victim's statement or  
852 address, or the statement or address of a relative of the  
853 victim. A request for records of information pursuant to this  
854 paragraph must be in writing and a statement provided  
855 demonstrating a need for the records or information.

856           (d) Information specified in paragraph (1)(b) to a public  
857 defender representing a defendant, except those portions of the  
858 records containing a victim's statement or address, or the  
859 statement or address of a relative of the victim. A request for  
860 records or information pursuant to this paragraph need not be in  
861 writing.

862           (e) Information specified in paragraph (1)(b) to state or  
863 local governmental agencies. A request for records or  
864 information pursuant to this paragraph must be in writing and a  
865 statement provided demonstrating a need for the records or  
866 information.

867           (f) Information specified in paragraph (1)(b) to a person

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conducting legitimate research. A request for records and information pursuant to this paragraph must be in writing, the person requesting the records or information must sign a confidentiality agreement, and the department must approve the request in writing.

(g) Information specified in paragraph (1)(a) to the Department of Health and the county health department where an inmate plans to reside if he or she has tested positive for the presence of the antibody or antigen to human immunodeficiency virus infection.

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

Section 23. This act shall take effect July 1, 2012.