

By Senator Bogdanoff

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

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

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59 and Legislature detailing the extent of implementation
60 of the reentry program and outlining future goals and
61 recommendations; authorizing the department to enter
62 into contracts with qualified individuals, agencies,
63 or corporations for services for the reentry program;
64 authorizing the department to impose administrative or
65 protective confinement as necessary; authorizing the
66 department to establish a system of incentives within
67 the reentry program which the department may use to
68 promote participation in rehabilitative programs and
69 the orderly operation of institutions and facilities;
70 directing the department to develop a system for
71 tracking recidivism, including, but not limited to,
72 rearrests and recommitment of nonviolent offenders who
73 successfully complete the reentry program, and to
74 report on recidivism in its annual report of the
75 program; directing the department to adopt rules;
76 providing an effective date.

77
78 Be It Enacted by the Legislature of the State of Florida:

79
80 Section 1. Section 893.135, Florida Statutes, is amended to
81 read:

82 893.135 Trafficking; ~~mandatory sentences;~~ suspension or
83 reduction of sentences; conspiracy to engage in trafficking.—

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

86 (a) Any person who knowingly sells, purchases,
87 manufactures, delivers, or brings into this state, or who is

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88 knowingly in actual or constructive possession of, in excess of
89 25 pounds of cannabis, or 300 or more cannabis plants, commits a
90 felony of the first degree, which felony shall be known as
91 "trafficking in cannabis," punishable as provided in s. 775.082,
92 s. 775.083, or s. 775.084. If the quantity of cannabis involved:

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

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

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

107
108 For the purpose of this paragraph, a plant, including, but not
109 limited to, a seedling or cutting, is a "cannabis plant" if it
110 has some readily observable evidence of root formation, such as
111 root hairs. To determine if a piece or part of a cannabis plant
112 severed from the cannabis plant is itself a cannabis plant, the
113 severed piece or part must have some readily observable evidence
114 of root formation, such as root hairs. Callous tissue is not
115 readily observable evidence of root formation. The viability and
116 sex of a plant and the fact that the plant may or may not be a

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117 dead harvested plant are not relevant in determining if the
118 plant is a "cannabis plant" or in the charging of an offense
119 under this paragraph. Upon conviction, the court shall impose
120 the longest term of imprisonment provided for in this paragraph.

121 (b)1. Any person who knowingly sells, purchases,
122 manufactures, delivers, or brings into this state, or who is
123 knowingly in actual or constructive possession of, 28 grams or
124 more of cocaine, as described in s. 893.03(2)(a)4., or of any
125 mixture containing cocaine, but less than 150 kilograms of
126 cocaine or any such mixture, commits a felony of the first
127 degree, which felony shall be known as "trafficking in cocaine,"
128 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
129 If the quantity involved:

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

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

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

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

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146 ~~convicted of the first degree felony of trafficking in cocaine~~
147 ~~under this subparagraph shall be punished by life imprisonment~~
148 ~~and is ineligible for any form of discretionary early release~~
149 ~~except pardon or executive clemency or conditional medical~~
150 ~~release under s. 947.149.~~ However, if the court determines that,
151 in addition to committing any act specified in this paragraph:

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

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

158
159 such person commits the capital felony of trafficking in
160 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
161 person sentenced for a capital felony under this paragraph shall
162 also be sentenced to pay the maximum fine provided under
163 subparagraph 1.

164 3. Any person who knowingly brings into this state 300
165 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
166 and who knows that the probable result of such importation would
167 be the death of any person, commits capital importation of
168 cocaine, a capital felony punishable as provided in ss. 775.082
169 and 921.142. Any person sentenced for a capital felony under
170 this paragraph shall also be sentenced to pay the maximum fine
171 provided under subparagraph 1.

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

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175 more of any morphine, opium, oxycodone, hydrocodone,
176 hydromorphone, or any salt, derivative, isomer, or salt of an
177 isomer thereof, including heroin, as described in s.
178 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more
179 of any mixture containing any such substance, but less than 30
180 kilograms of such substance or mixture, commits a felony of the
181 first degree, which felony shall be known as "trafficking in
182 illegal drugs," punishable as provided in s. 775.082, s.
183 775.083, or s. 775.084. If the quantity involved:

184 a. Is 4 grams or more, but less than 14 grams, such person
185 shall be ~~sentenced to a mandatory minimum term of imprisonment~~
186 ~~of 3 years, and the defendant shall be~~ ordered to pay a fine of
187 \$50,000.

188 b. Is 14 grams or more, but less than 28 grams, such person
189 shall be ~~sentenced to a mandatory minimum term of imprisonment~~
190 ~~of 15 years, and the defendant shall be~~ ordered to pay a fine of
191 \$100,000.

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

195 2. Any person who knowingly sells, purchases, manufactures,
196 delivers, or brings into this state, or who is knowingly in
197 actual or constructive possession of, 30 kilograms or more of
198 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or
199 any salt, derivative, isomer, or salt of an isomer thereof,
200 including heroin, as described in s. 893.03(1)(b), (2)(a),
201 (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture
202 containing any such substance, commits the first degree felony
203 of trafficking in illegal drugs. ~~A person who has been convicted~~

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~~of the first degree felony of trafficking in illegal drugs under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149.~~ However, if the court determines that, in addition to committing any act specified in this paragraph:

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

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

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

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

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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 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.

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(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 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,

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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.

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

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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 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 ordered ~~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

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flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits the first degree felony 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 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.

(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.

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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 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.

(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 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 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 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

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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, 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):

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- 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.~~

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~~

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494 pay a fine of \$100,000.

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

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

- 501 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 502 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 503 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 504 d. 2,5-Dimethoxyamphetamine;
- 505 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 506 f. N-ethylamphetamine;
- 507 g. N-Hydroxy-3,4-methylenedioxymphetamine;
- 508 h. 5-Methoxy-3,4-methylenedioxymphetamine;
- 509 i. 4-methoxyamphetamine;
- 510 j. 4-methoxymphetamine;
- 511 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 512 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 513 m. 3,4-Methylenedioxyamphetamine;
- 514 n. N,N-dimethylamphetamine; or
- 515 o. 3,4,5-Trimethoxyamphetamine,

516
517 individually or in any combination of or any mixture containing
518 any substance listed in sub-subparagraphs a.-o., and who knows
519 that the probable result of such manufacture or importation
520 would be the death of any person commits capital manufacture or
521 importation of Phenethylamines, a capital felony punishable as
522 provided in ss. 775.082 and 921.142. Any person sentenced for a

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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 \$50,000.

b. Is 5 grams or more, but less than 7 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 7 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 \$500,000.

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

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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.

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

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

(4) The state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of that person's accomplices, accessories, coconspirators, or principals or of any other person engaged in trafficking in controlled substances. The arresting agency shall be given an

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581 opportunity to be heard in aggravation or mitigation in
582 reference to any such motion. Upon good cause shown, the motion
583 may be filed and heard in camera. The judge hearing the motion
584 may reduce or suspend, defer, or withhold the sentence or
585 adjudication of guilt if the judge finds that the defendant
586 rendered such substantial assistance.

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

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

606 (7) For the purpose of further clarifying legislative
607 intent, the Legislature finds that the opinion in *Hayes v.*
608 *State*, 750 So. 2d 1 (Fla. 1999) does not correctly construe
609 legislative intent. The Legislature finds that the opinions in

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610 *State v. Hayes*, 720 So. 2d 1095 (Fla. 4th DCA 1998) and *State v.*
611 *Baxley*, 684 So. 2d 831 (Fla. 5th DCA 1996) correctly construe
612 legislative intent.

613 Section 2. Nonviolent offender reentry program.-

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

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

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

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

620 2. Not been convicted of any offense that requires a person
621 to register as a sexual offender pursuant to s. 943.0435,
622 Florida Statutes.

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

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

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

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

641 (3) (a) Upon receiving a potential reentry program
642 participant, the department shall screen the nonviolent offender
643 for eligibility criteria to participate in the reentry program.
644 In order to participate, a nonviolent offender must have served
645 at least one-half of his or her original sentence and must have
646 been identified as having a need for substance abuse treatment.
647 When screening a nonviolent offender, the department shall
648 consider the offender's criminal history and the possible
649 rehabilitative benefits that substance abuse treatment,
650 educational programming, vocational training, and other
651 rehabilitative programming might have on the offender.

652 (b) If a nonviolent offender meets the eligibility criteria
653 and space is available in the reentry program, the department
654 shall request the sentencing court to approve the offender's
655 participation in the reentry program.

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

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

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668 receiving the notice.

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

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

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

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697 which the offender is unable to participate in the reentry
698 program shall be excluded from the specified time requirements
699 in the reentry program.

700 (b) The department may terminate an offender from the
701 reentry program if:

702 1. The offender commits or threatens to commit a violent
703 act;

704 2. The department determines that the offender is unable to
705 participate in the reentry program due to the offender's medical
706 condition;

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

708 4. The department reassigns the offender's classification
709 status; or

710 5. The department determines that removing the offender
711 from the reentry program is in the best interest of the offender
712 or the security of the institution.

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

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726 conditions of drug offender probation, the court may revoke
727 probation and impose any sentence that it might have originally
728 imposed.

729 (b) If an offender being released pursuant to paragraph (a)
730 intends to reside in a county that has established a
731 postadjudicatory drug court program as described in s. 397.334,
732 Florida Statutes, the sentencing court may require the offender
733 to successfully complete the postadjudicatory drug court program
734 as a condition of drug offender probation. The original
735 sentencing court shall relinquish jurisdiction of the offender's
736 case to the postadjudicatory drug court program until the
737 offender is no longer active in the program, the case is
738 returned to the sentencing court due to the offender's
739 termination from the program for failure to comply with the
740 terms thereof, or the offender's sentence is completed. If
741 transferred to a postadjudicatory drug court program, the
742 offender shall comply with all conditions and orders of the
743 program.

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

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

751 (9) The department may enter into performance-based
752 contracts with qualified individuals, agencies, or corporations
753 for the provision of any or all of the services for the reentry
754 program.

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755 (10) A nonviolent offender in the reentry program is
756 subject to rules of conduct established by the department and
757 may have sanctions imposed, including loss of privileges,
758 restrictions, disciplinary confinement, alteration of release
759 plans, or other program modifications in keeping with the nature
760 and gravity of the program violation. Administrative or
761 protective confinement, as necessary, may be imposed.

762 (11) The department may establish a system of incentives
763 within the reentry program which the department may use to
764 promote participation in rehabilitative programs and the orderly
765 operation of institutions and facilities.

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

771 (13) The department shall adopt rules pursuant to ss.
772 120.536(1) and 120.54, Florida Statutes, to administer the
773 reentry program.

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