

By Senator Bullard

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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, 27.709,
12 27.7091, 27.710, 27.711, and 27.715, F.S., relating to
13 capital collateral representation; amending s.
14 119.071, F.S.; deleting a public-records exemption
15 relating to capital collateral proceedings; amending
16 ss. 775.15 and 790.161, F.S.; deleting provisions
17 relating to the effect of a declaration by a court of
18 last resort declaring that the death penalty in a
19 capital felony is unconstitutional; repealing s.
20 913.13, F.S., relating to jurors in capital cases;
21 repealing s. 921.137, F.S., relating to prohibiting
22 the imposition of the death sentence upon a defendant
23 with mental retardation; repealing s. 921.141, F.S.,
24 relating to determination of whether to impose a
25 sentence of death or life imprisonment for a capital
26 felony; repealing s. 921.142, F.S., relating to
27 determination of whether to impose a sentence of death
28 or life imprisonment for a capital drug trafficking
29 felony; amending ss. 782.04, 794.011, and 893.135,

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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; limitations on actions; amending ss. 924.058 and 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-

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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~~
~~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.—

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(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) of section 27.511, Florida Statutes, are amended to read:

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

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

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117 a conflict of interest, and the court grants the public
118 defender's motion to withdraw, the office of criminal conflict
119 and civil regional counsel shall be appointed and shall provide
120 legal services, without additional compensation, to any person
121 determined to be indigent under s. 27.52, who is:

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

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

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

132 Section 4. Sections 27.7001, 27.7002, 27.701, 27.702,
133 27.703, 27.704, 27.705, 27.706, 27.707, 27.708, 27.7081, 27.709,
134 27.7091, 27.710, 27.711, and 27.715 Florida Statutes, are
135 repealed.

136 Section 5. Paragraph (d) of subsection (1) of section
137 119.071, Florida Statutes, is amended to read:

138 119.071 General exemptions from inspection or copying of
139 public records.—

140 (1) AGENCY ADMINISTRATION.—

141 (d)1. A public record that was prepared by an agency
142 attorney (including an attorney employed or retained by the
143 agency or employed or retained by another public officer or
144 agency to protect or represent the interests of the agency
145 having custody of the record) or prepared at the attorney's

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146 express direction, that reflects a mental impression,
147 conclusion, litigation strategy, or legal theory of the attorney
148 or the agency, and that was prepared exclusively for civil or
149 criminal litigation or for adversarial administrative
150 proceedings, or that was prepared in anticipation of imminent
151 civil or criminal litigation or imminent adversarial
152 administrative proceedings, is exempt from s. 119.07(1) and s.
153 24(a), Art. I of the State Constitution until the conclusion of
154 the litigation or adversarial administrative proceedings. ~~For~~
155 ~~purposes of capital collateral litigation as set forth in s.~~
156 ~~27.7001, the Attorney General's office is entitled to claim this~~
157 ~~exemption for those public records prepared for direct appeal as~~
158 ~~well as for all capital collateral litigation after direct~~
159 ~~appeal until execution of sentence or imposition of a life~~
160 ~~sentence.~~

161 2. This exemption is not waived by the release of such
162 public record to another public employee or officer of the same
163 agency or any person consulted by the agency attorney. When
164 asserting the right to withhold a public record pursuant to this
165 paragraph, the agency shall identify the potential parties to
166 any such criminal or civil litigation or adversarial
167 administrative proceedings. If a court finds that the document
168 or other record has been improperly withheld under this
169 paragraph, the party seeking access to such document or record
170 shall be awarded reasonable attorney's fees and costs in
171 addition to any other remedy ordered by the court.

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

174 775.15 Time limitations; general time limitations;

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175 exceptions.—

176 (1) A prosecution for a capital felony, a life felony, or a
177 felony that resulted in a death may be commenced at any time. ~~If~~
178 ~~the death penalty is held to be unconstitutional by the Florida~~
179 ~~Supreme Court or the United States Supreme Court, all crimes~~
180 ~~designated as capital felonies shall be considered life felonies~~
181 ~~for the purposes of this section, and prosecution for such~~
182 ~~crimes may be commenced at any time.~~

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

185 790.161 Making, possessing, throwing, projecting, placing,
186 or discharging any destructive device or attempt so to do,
187 felony; penalties.—A person who willfully and unlawfully makes,
188 possesses, throws, projects, places, discharges, or attempts to
189 make, possess, throw, project, place, or discharge any
190 destructive device:

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

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~~Constitution of the United States.~~

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

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

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

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

782.04 Murder.—

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

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

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

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

b. Arson,

c. Sexual battery,

d. Robbery,

e. Burglary,

f. Kidnapping,

g. Escape,

h. Aggravated child abuse,

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

j. Aircraft piracy,

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

l. Carjacking,

m. Home-invasion robbery,

n. Aggravated stalking,

o. Murder of another human being,

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233 p. Resisting an officer with violence to his or her person,
234 q. Felony that is an act of terrorism or is in furtherance
235 of an act of terrorism; or

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

242
243 is murder in the first degree and constitutes a capital felony,
244 punishable as provided in s. 775.082.

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

248 Section 12. Paragraph (a) of subsection (2) of section
249 794.011, Florida Statutes, is amended to read:

250 794.011 Sexual battery.—

251 (2)(a) A person 18 years of age or older who commits sexual
252 battery upon, or in an attempt to commit sexual battery injures
253 the sexual organs of, a person less than 12 years of age commits
254 a capital felony, punishable as provided in s. 775.082 ~~and~~
255 ~~921.141~~.

256 Section 13. Paragraphs (b), (c), (d), (e), (f), (g), (h),
257 (i), (j), (k), and (l) of subsection (1) of section 893.135,
258 Florida Statutes, are amended to read:

259 893.135 Trafficking; mandatory sentences; suspension or
260 reduction of sentences; conspiracy to engage in trafficking.—

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

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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. If the quantity involved:

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

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

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

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 150 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., commits the first degree felony of trafficking in cocaine. A person who has been convicted of the first degree felony of trafficking in cocaine under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release

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except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

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

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

such person commits the capital felony of trafficking in cocaine, punishable as provided in 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.

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

(c)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 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s.

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893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as "trafficking in illegal drugs," 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 15 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 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs. A person who has been convicted 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

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349 pardon or executive clemency or conditional medical release
350 under s. 947.149. However, if the court determines that, in
351 addition to committing any act specified in this paragraph:

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

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

358
359 such person commits the capital felony of trafficking in illegal
360 drugs, punishable as provided in s. ss. 775.082 and 921.142. Any
361 person sentenced for a capital felony under this paragraph shall
362 also be sentenced to pay the maximum fine provided under
363 subparagraph 1.

364 3. Any person who knowingly brings into this state 60
365 kilograms or more of any morphine, opium, oxycodone,
366 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
367 salt of an isomer thereof, including heroin, as described in s.
368 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
369 more of any mixture containing any such substance, and who knows
370 that the probable result of such importation would be the death
371 of any person, commits capital importation of illegal drugs, a
372 capital felony punishable as provided in s. ss. 775.082 and
373 921.142. Any person sentenced for a capital felony under this
374 paragraph shall also be sentenced to pay the maximum fine
375 provided under subparagraph 1.

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

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378 knowingly in actual or constructive possession of, 28 grams or
379 more of phencyclidine or of any mixture containing
380 phencyclidine, as described in s. 893.03(2)(b), commits a felony
381 of the first degree, which felony shall be known as "trafficking
382 in phencyclidine," punishable as provided in s. 775.082, s.
383 775.083, or s. 775.084. If the quantity involved:

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

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

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

395 2. Any person who knowingly brings into this state 800
396 grams or more of phencyclidine or of any mixture containing
397 phencyclidine, as described in s. 893.03(2)(b), and who knows
398 that the probable result of such importation would be the death
399 of any person commits capital importation of phencyclidine, a
400 capital felony punishable as provided in s. 775.082 ~~and~~
401 ~~921.142~~. Any person sentenced for a capital felony under this
402 paragraph shall also be sentenced to pay the maximum fine
403 provided under subparagraph 1.

404 (e)1. Any person who knowingly sells, purchases,
405 manufactures, delivers, or brings into this state, or who is
406 knowingly in actual or constructive possession of, 200 grams or

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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 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

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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 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 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

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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 of
trafficking in flunitrazepam. A person who has been convicted of

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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:

a. Is 1 kilogram or more but less than 5 kilograms, such person shall be sentenced to a mandatory minimum term of

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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. 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 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:

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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 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. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

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

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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 \$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 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;

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

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

2. If the quantity involved:

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

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

c. Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years

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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-methylenedioxyamphetamine;
- h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- i. 4-methoxyamphetamine;
- j. 4-methoxymethamphetamine;
- k. 4-Methyl-2,5-dimethoxyamphetamine;
- l. 3,4-Methylenedioxy-N-ethylamphetamine;
- m. 3,4-Methylenedioxyamphetamine;
- n. N,N-dimethylamphetamine; or
- o. 3,4,5-Trimethoxyamphetamine,

individually or in any combination of or any mixture containing any substance listed in sub-subparagraphs a.-o., and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of Phenethylamines, 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.

(1)1. Any person who knowingly sells, purchases,

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668 manufactures, delivers, or brings into this state, or who is
669 knowingly in actual or constructive possession of, 1 gram or
670 more of lysergic acid diethylamide (LSD) as described in s.
671 893.03(1)(c), or of any mixture containing lysergic acid
672 diethylamide (LSD), commits a felony of the first degree, which
673 felony shall be known as "trafficking in lysergic acid
674 diethylamide (LSD)," punishable as provided in s. 775.082, s.
675 775.083, or s. 775.084. If the quantity involved:

676 a. Is 1 gram or more, but less than 5 grams, such person
677 shall be sentenced to a mandatory minimum term of imprisonment
678 of 3 years, and the defendant shall be ordered to pay a fine of
679 \$50,000.

680 b. Is 5 grams or more, but less than 7 grams, such person
681 shall be sentenced to a mandatory minimum term of imprisonment
682 of 7 years, and the defendant shall be ordered to pay a fine of
683 \$100,000.

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

687 2. Any person who knowingly manufactures or brings into
688 this state 7 grams or more of lysergic acid diethylamide (LSD)
689 as described in s. 893.03(1)(c), or any mixture containing
690 lysergic acid diethylamide (LSD), and who knows that the
691 probable result of such manufacture or importation would be the
692 death of any person commits capital manufacture or importation
693 of lysergic acid diethylamide (LSD), a capital felony punishable
694 as provided in s. ss. 775.082 and 921.142. Any person sentenced
695 for a capital felony under this paragraph shall also be
696 sentenced to pay the maximum fine provided under subparagraph 1.

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Section 14. 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 15. 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
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

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order that describes or adjudicates a violation.

Section 16. Sections 924.056 and 924.057, Florida Statutes,
are repealed.

Section 17. 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 18. Subsection (8) of section 924.059, Florida
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~~

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~~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 19. 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~~
~~sentence. In all other cases, a governmental entity may dispose~~
~~of the physical evidence if the term of the sentence imposed in~~
~~the case has expired and no other provision of law or rule~~
~~requires that the physical evidence be preserved or retained.~~

Section 20. Paragraphs (g) and (h) of subsection (1) and
subsection (2) of section 945.10, Florida Statutes, are amended
to read:

945.10 Confidential information.—

(1) Except as otherwise provided by law or in this section,
the following records and information held by the Department of
Corrections are confidential and exempt from the provisions of

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s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

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

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

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

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

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

(c) Information specified in paragraph (1)(b) to an attorney representing an inmate under sentence of death, except those portions of the records containing a victim's statement or address, or the statement or address of a relative of the

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victim. A request for records of information pursuant to this paragraph must be in writing and a statement provided demonstrating a need for the records or information.

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

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

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

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842 receiving person or entity.

843 Section 21. This act shall take effect July 1, 2011.