

CHAPTER 98-417

House Bill No. 4233

An act relating to criminal justice; amending s. 782.04, F.S.; redefining the offense of capital murder in the first degree to include the act of unlawfully killing a human being while perpetrating, or attempting to perpetrate, the murder of another human being; providing penalties; providing that a person who perpetrates or attempts to perpetrate a murder commits felony murder in the second degree when a person is killed by someone other than the perpetrator; providing penalties; adding murder to the list of felony offenses which do not constitute third-degree felony murder; reenacting ss. 39.464(1)(d), 435.03(2)(b), 435.04(2)(b), 775.0823(1) and (2), 921.0022(3)(i), 943.325(1), and 947.146(3), F.S., relating to the termination of parental rights, screening standards, violent offenses against law enforcement officers and others, the Criminal Punishment Code, blood testing, and the Control Release Authority, to incorporate the amendment to 782.04, F.S., in references thereto; amending ss. 782.071, 782.072, F.S.; increasing the penalties imposed for committing the offense of vehicular homicide or vessel homicide; increasing the penalties imposed for committing vehicular homicide or vessel homicide and failing to give information and render aid when the offender knew, or should have known, that the accident occurred; amending s. 921.0022, F.S., relating to the Criminal Punishment Code; conforming references to changes made by the act; amending s. 960.13, F.S.; limiting crimes compensation awards under certain circumstances; authorizing the Department of Legal Affairs to adopt certain rules; amending s. 782.071, F.S.; redefining the offense of "vehicular homicide" to include the killing of a viable fetus by any injury to the mother caused by the operation of a motor vehicle by another; providing penalties; specifying when a fetus is viable; providing a right of action for civil damages; reenacting ss. 921.0022(3)(h) and 960.03(3), F.S., relating to the offense severity ranking chart and the definition of "crime" with respect to the Florida Crimes Compensation Act, respectively, to incorporate said amendment in references; amending s. 921.0022, F.S., relating to the offense severity ranking chart, to conform terminology; amending s. 27.709, F.S.; providing that the Commission on the Administration of Justice in Capital Cases shall conduct a study concerning the elimination of state postconviction proceedings in death penalty cases; providing that certain proviso language contained in the Conference Report On House Bill 4201 may not be modified through substantive legislation passed during the 1998 regular session of the Legislature unless certain conditions are met; providing for severability; providing an appropriation from specified trust funds to the Correctional Privatization Commission to develop two invitations to bid, as defined in ch. 287, F.S., for the design, acquisition, construction, and operation of one adult prison and one facility for youthful offenders; providing requirements for the invitation to bid; authorizing the Correctional Privatization Commission to award contracts;

superseding proviso language with respect to specific appropriations that are duplicative or in conflict by repeal; providing an effective date.

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

Section 1. 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; ~~or~~

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, ~~or~~
- o. Murder of another human being; or

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

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

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

(2) The unlawful killing of a human being, when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, is murder in the second degree and constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) When a person is killed 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, ~~or~~
- (n) Aggravated stalking, or
- (o) Murder of another human being,

by a person other than the person engaged in the perpetration of or in the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony is guilty of murder in the second degree, which constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

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

- (a) Trafficking offense prohibited by s. 893.135(1),
- (b) Arson,
- (c) Sexual battery,
- (d) Robbery,
- (e) Burglary,
- (f) Kidnapping,
- (g) Escape,
- (h) Aggravated child abuse,
- (i) Aggravated abuse of an elderly person or disabled adult,
- (j) Aircraft piracy,
- (k) Unlawful throwing, placing, or discharging of a destructive device or bomb,
- (l) Unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,
- (m) Carjacking,
- (n) Home-invasion robbery, ~~or~~
- (o) Aggravated stalking, or
- (p) Murder of another human being.

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

Section 2. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (d) of subsection (1) of section 39.464, Florida Statutes, is reenacted to read:

39.464 Grounds for termination of parental rights.—

(1) The department, the guardian ad litem, a licensed child-placing agency, or any person who has knowledge of the facts alleged or who is informed of said facts and believes that they are true, may petition for the termination of parental rights under any of the following circumstances:

(d) When the parent of a child is incarcerated in a state or federal correctional institution and:

1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;

2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this paragraph, and that is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; and

3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.

Section 3. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (b) of subsection (2) of section 435.03, Florida Statutes, is reenacted to read:

435.03 Level 1 screening standards.—

(2) Any person for whom employment screening is required by statute must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(b) Section 782.04, relating to murder.

Section 4. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (b) of subsection (2) of section 435.04, Florida Statutes, is reenacted to read:

435.04 Level 2 screening standards.—

(2) The security background investigations under this section must ensure that no persons subject to the provisions of this section have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(b) Section 782.04, relating to murder.

Section 5. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, subsections (1) and (2) of section 775.0823, Florida Statutes, as amended by section 11 of chapter 97-194, Laws of Florida, are reenacted to read:

775.0823 Violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges.—Any provision of law to the contrary notwithstanding, the Legislature does hereby provide for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; or against any justice or judge of a court described in Art. V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, or the justice's or judge's duty as a judicial officer, as follows:

(1) For murder in the first degree as described in s. 782.04(1), if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release.

(2) For attempted murder in the first degree as described in s. 782.04(1), a sentence pursuant to the Criminal Punishment Code.

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.

Section 6. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, paragraph (i) of subsection (3) of section 921.0022, Florida Statutes, as created by section 5 of chapter 97-194, Laws of Florida, is reenacted to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(i) LEVEL 9
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
782.07(3)	1st	Aggravated manslaughter of a child.

Florida Statute	Felony Degree	Description
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
790.161	1st	Attempted capital destructive device offense.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.

Florida Statute	Felony Degree	Description
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.

Section 7. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, subsection (1) of section 943.325, Florida Statutes, is reenacted to read:

943.325 Blood specimen testing for DNA analysis.—

(1)(a) Any person convicted, or who was previously convicted and is still incarcerated, in this state for any offense or attempted offense defined in chapter 794, chapter 800, s. 782.04, s. 784.045, s. 812.133, or s. 812.135, and who is within the confines of the legal state boundaries, shall be required to submit two specimens of blood to a Department of Law Enforcement designated testing facility as directed by the department.

(b) For the purpose of this section, the term “any person” shall include both juveniles and adults committed to or under the supervision of the Department of Corrections or the Department of Juvenile Justice.

Section 8. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in references thereto, subsection (3) of section 947.146, Florida Statutes, as amended by section 31 of chapter 97-194, Laws of Florida, is reenacted to read:

947.146 Control Release Authority.—

(3) Within 120 days prior to the date the state correctional system is projected pursuant to s. 216.136 to exceed 99 percent of total capacity, the authority shall determine eligibility for and establish a control release date for an appropriate number of parole ineligible inmates committed to the department and incarcerated within the state who have been determined by the authority to be eligible for discretionary early release pursuant to this section. In establishing control release dates, it is the intent of the Legislature that the authority prioritize consideration of eligible inmates closest to their tentative release date. The authority shall rely upon commitment data on the offender information system maintained by the department to initially identify inmates who are to be reviewed for control release consideration. The authority may use a method of objective risk assessment in determining if an eligible inmate should be released. Such assessment shall be a part of the department’s management information system. However, the authority shall have sole responsibility for determining control release

eligibility, establishing a control release date, and effectuating the release of a sufficient number of inmates to maintain the inmate population between 99 percent and 100 percent of total capacity. Inmates who are ineligible for control release are inmates who are parole eligible or inmates who:

(a) Are serving a sentence that includes a mandatory minimum provision for a capital offense or drug trafficking offense and have not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Are serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);

(c) Are convicted, or have been previously convicted, of committing or attempting to commit sexual battery, incest, or any of the following lewd or indecent assaults or acts: masturbating in public; exposing the sexual organs in a perverted manner; or nonconsensual handling or fondling of the sexual organs of another person;

(d) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of such offense;

(e) Are convicted, or have been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery or a sex act was attempted or completed during commission of the offense;

(f) Are convicted, or have been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse, sexual battery against the child, or a lewd, lascivious, or indecent assault or act upon or in the presence of the child;

(g) Are sentenced, have previously been sentenced, or have been sentenced at any time under s. 775.084, or have been sentenced at any time in another jurisdiction as a habitual offender;

(h) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against a state attorney or assistant state attorney; or against a justice or judge of a court described in Art. V of the State Constitution; or against an officer, judge, or state attorney employed in a comparable position by any other jurisdiction; or

(i) Are convicted, or have been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4), or have ever been convicted of any degree of murder or attempted murder in another jurisdiction;

(j) Are convicted, or have been previously convicted, of DUI manslaughter under s. 316.193(3)(c)3., and are sentenced, or have been sentenced at any time, as a habitual offender for such offense, or have been sentenced at any time in another jurisdiction as a habitual offender for such offense;

(k)1. Are serving a sentence for an offense committed on or after January 1, 1994, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), or (5), and the subtotal of the offender's sentence points is multiplied pursuant to former s. 921.0014 or s. 921.0024;

2. Are serving a sentence for an offense committed on or after October 1, 1995, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), (5), (6), (7), or (8), and the subtotal of the offender's sentence points is multiplied pursuant to former s. 921.0014 or s. 921.0024;

(l) Are serving a sentence for an offense committed on or after January 1, 1994, for possession of a firearm, semiautomatic firearm, or machine gun in which additional points are added to the subtotal of the offender's sentence points pursuant to former s. 921.0014 or s. 921.0024; or

(m) Are convicted, or have been previously convicted, of committing or attempting to commit manslaughter, kidnapping, robbery, carjacking, home-invasion robbery, or a burglary under s. 810.02(2).

In making control release eligibility determinations under this subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense.

Section 9. Section 782.071, Florida Statutes, is amended to read:

782.071 Vehicular homicide.—“Vehicular homicide” is the killing of a human being, or the killing of a viable fetus by any injury to the mother caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another. Vehicular homicide is:

(1) A felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(a) At the time of the accident, the person knew, or should have known, that the accident occurred; and

(b) The person failed to give information and render aid as required by s. 316.062.

This subsection does not require that the person knew that the accident resulted in injury or death.

(3) For purposes of this section, a fetus is viable when it becomes capable of meaningful life outside the womb through standard medical measures.

(4) A right of action for civil damages shall exist under s. 768.19, under all circumstances, for all deaths described in this section.

Section 10. Paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is amended, and paragraph (h) of subsection (3) of that section is reenacted, to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
409.920(2)	3rd	Medicaid provider fraud.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	3rd	Killing of human being <u>or viable fetus</u> by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	3rd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).

Florida Statute	Felony Degree	Description
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04	2nd	Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
812.014(2)(a)	1st	Property stolen, valued at \$100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(4)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
872.06	2nd	Abuse of a dead human body.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).

Florida Statute	Felony Degree	Description
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
		(h) LEVEL 8
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
782.071(2)	2nd	Committing vehicular homicide and failing to render aid or give information.
782.072(2)	2nd	Committing vessel homicide and failing to render aid or give information.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.

Florida Statute	Felony Degree	Description
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)	1st	Home-invasion robbery.
825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.
825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
827.03(2)	2nd	Aggravated child abuse.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.

Florida Statute	Felony Degree	Description
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.

Section 11. For the purpose of incorporating the amendment made by this act to section 782.071, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 960.03, Florida Statutes, is reenacted to read:

960.03 Definitions.—As used in ss. 960.01-960.28, unless the context otherwise requires, the term:

(3) “Crime” means:

(b) A violation of s. 316.193, s. 316.027(1), or s. 782.071(2), which results in physical injury or death; however, no other act involving the operation of a motor vehicle, boat, or aircraft which results in injury or death shall constitute a crime for the purpose of this chapter unless the injury or death was intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this act applies.

Section 12. Subsection (3) is added to section 27.709, Florida Statutes, to read: 27.709 Commission on the Administration of Justice in Capital Cases.—

(3) The Commission on the Administration of Justice in Capital Cases shall conduct a study to evaluate whether the elimination of state postconviction proceedings in death penalty cases will reduce delays in carrying out a sentence of death in capital cases. In conducting the study the Commission shall take public testimony from any interested party. The Commission shall review the average number of postconviction motions and writs filed in capital cases, prior legislative and judicial attempts to reduce delays in capital cases, and the length of time required for capital postconviction claims in state and federal court. The Commission shall consider average delays in capital cases, whether those delays have increased in the last 10 years, and the reasons for any increase in delays. The study shall include a report which addresses the legal, fiscal, and practical considerations concerning the elimination of state postconviction proceedings, and the recommendation of the Commission. Public notice shall be provided, in a manner agreed to by the Commission, for all hearings where the Commission intends to hear public testimony concerning the elimination of state postconviction proceedings in death penalty cases for purposes of this study. The report shall be submitted to the Speaker of the House of Representatives, the President of the Senate, and minority leaders in the House and the Senate by December 1, 1998.

Section 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 14. The Correctional Privatization Commission, using the \$100,000 from the General Revenue Fund provided in Specific Appropriation 589 of the Conference Report on House Bill 4201 to the Correctional Privatization Commission for the purpose of developing two invitations to bid, shall develop the two invitations to bid as defined in chapter 287, Florida Statutes, pursuant to the following provisions:

(1) The first invitation to bid shall be for the designing, acquiring, constructing, and operating of one 1,497-bed adult prison designed to house offenders at all security levels. In no case may a contract be awarded pursuant to the first invitation to bid for a project in which the fixed capital outlay costs will exceed \$27,600,000. Notwithstanding any provision of chapter 216, Florida Statutes, to the contrary and with express reference to section 216.351, Florida Statutes, the Executive Office of the Governor shall transfer \$1,166,219 from the General Revenue Fund and \$4,833,781 from the Grants and Donations Trust Fund from Specific Appropriation 598 to Specific Appropriation 589 for the first-year fixed capital outlay costs of the project.

(2) The second invitation to bid must be designed for the designing, acquiring, constructing, and operating of a 350-bed youthful offender facility. In no case may a contract be awarded pursuant to the second invitation to bid for a project in which the fixed capital outlay costs would exceed \$8,950,000. Funding for the fixed capital outlay costs of any contract awarded pursuant to the second invitation to bid shall be subject to legislative appropriation during the 1999 Regular Session.

The Correctional Privatization Commission may award contracts pursuant to the two invitations to bid to the lowest cost-responsive bidders. The authority to issue two invitations to bid and contracts contained in this section shall be in lieu of the authority to issue two invitations to bid and contracts provided in the proviso language following Specific Appropriation 589 of the Conference Report on House Bill 4201. Further, to the extent that the proviso language following Specific Appropriation 589 of the Conference Report on House Bill 4201 is duplicative of the provisions of this section or in conflict thereof, those specific provisions of the proviso language are repealed.

Section 15. This act shall take effect October 1, 1998.

Became a law without the Governor's approval June 17, 1998.

Filed in Office Secretary of State June 11, 1998.