

CS/SB 190 – Controlled Substances (Identical CS/HB 95)

This bill amends multiple statutes. First, it amends the Level 9, 1st degree felony under s. 782.04(1), F.S. for “the unlawful killing of a human being...when perpetrated from a premeditated design to effect the death of the person killed or any human being,” deleting that the unlawful killing of a human being can be defined as someone unlawfully distributing a controlled substance and that substance being the proximate cause of the death of the user. It is replaced with (new language in bold): “**proven to have caused, or is proven to have been a substantial factor in producing** the death of the user.” It also adds methamphetamine to the list of substances where this language would apply. Furthermore, it amends the Level 8, 1st degree felony under s. 782.04(4), F.S. for “the unlawful killing of a human being, when perpetrated without any design to effect death,” expanding the list of unlawfully distributed substances to match what is included under s. 782.04(1), F.S., which now includes methamphetamine, and also deleting that the unlawfully distributed substance must be the proximate cause of the death of the user. This is also replaced with (new language in bold): “**proven to have caused, or is proven to have been a substantial factor in producing** the death of the user.” It then defines substantial factor as “the use of the substance or mixture alone is sufficient to cause death, regardless of whether any other substance or mixture used is also sufficient to cause death.”

This bill also amends s. 893.13, F.S., adding the following (in bold) to the current unranked, 2nd degree felony (Level 4 by default) and unranked, 1st degree felony (Level 7 by default): “a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising **a mental health facility, as that term is used in chapter 394; a health care facility licensed under chapter 395 which provides substance abuse treatment; a licensed service provider as defined in s. 397.311, F.S.; a facility providing services that include clinical treatment, intervention, or prevention as described in s. 397.311(26), F.S.; a recovery residence as defined in s. 397.311, F.S.; an assisted living facility as defined in chapter 429; or a pain management clinic as defined in s. 458.3265(1)(a)1.c., F.S. or s. 459.0137(1)(a)1.c., F.S.**”

Per DOC, in FY 18-19, there was 1 new commitment under s. 782.04, F.S. relating to drugs, and no new commitments in FY 19-20 or FY 20-21. There were 2 new commitments for drug activity near an assisted living facility in FY 18-19 and no new commitments in FY 19-20. There was 1 new commitment in FY 20-21. Although this number is low, there are generally over 500 new commitments a year for selling drugs near a restricted place. Per Florida Department of Health, in CY 2019, there were 38,985 nonfatal overdoses and 5,352 fatal overdoses. Of the fatal overdoses,

methamphetamine showed 896 where it was a contributing drug. Additionally, the drugs listed under s. 782.04(1), F.S. showed similar high numbers as contributing to fatal overdoses. It is not known how prison admissions will be impacted by this new language.

CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate

Requested by: Senate & House