

## CS/CS/HB 21 – Controlled Substances

This bill amends several sections of s. 893.03, F.S., s. 893.13, F.S., and s. 893.135, F.S. in order to align the state's Controlled Substance Act with current federal schedules of controlled substances, adding multiple substances across schedules II through V, making the unauthorized sale, manufacture, possession, delivery, or purchase of these substances, as well trafficking in some instances, now subject to criminal penalties.

Sentencing patterns generally vary across and within schedules, and demand for each drug type added to the schedules likely varies too, so it is not known how these additions to the schedules would impact prison beds.

This bill also amends s. 893.0551, F.S., expanding the list of persons and entities that confidential and exempt information can be disclosed. Currently, an unranked, 3<sup>rd</sup> degree felony exists for a willful and knowing violation of this section. Per DOC, in FY 16-17, nobody was sentenced for this offense.

This bill also amends s. 893.13(7)(e), F.S., increasing the unranked, 3<sup>rd</sup> degree felony to an unranked, 2<sup>nd</sup> degree felony for a person or health care practitioner who violates s. 893.13(7)(a)13, F.S. and s. 893.13(7)(b), F.S. if any controlled substance that is the subject of the offense is listed in Schedule II, Schedule III, or Schedule IV. The violations include the intent to obtain or provide a controlled substance or combination of controlled substances that are not medically necessary for the person or patient or an amount of a controlled substance or substances that is not medically necessary for the person or patient, obtain or attempt to obtain from a practitioner or a practitioner providing, a controlled substance or a prescription for a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, or concealment of a material fact. Per DOC, in FY 16-17, 115 (adj.) offenders were sentenced under s. 893.13(7)(a)13, F.S., which applies to non-practitioner violations, with 6 (adj.) offenders receiving a prison sentence (mean sentence length=19.4 m, incarceration rate: 5.2% adj.-4.8% unadj.). No offenders were sentenced under s. 893.13(7)(b), F.S., which applies to practitioners prescribing to patients.

This bill also amends s. 893.147, F.S., stating that "it is unlawful for any person to possess, purchase, deliver, sell, or possess with intent to sell or deliver a tableting machine, an encapsulating machine, or controlled substance counterfeiting materials knowing, intending, or having reasonable cause to believe that it will be used to manufacture a controlled substance or counterfeit controlled substance," adding an **unranked, 3<sup>rd</sup> degree felony** for this offense and an **unranked, 2<sup>nd</sup> degree felony** for "knowing, intending, or having reasonable cause to believe that such action will result in the unlawful manufacture of a controlled substance or counterfeit controlled substance among a list of controlled substances and their analogs." Per DOC, in FY 16-17, 42 (adj.) offenders were sentenced for offenses under s. 893.147, F.S., with 9 (adj.) sentenced to prison (mean sentence length=56.0 m, incarceration rate: 21.4% adj.-21.1% unadj.). The prevalence and use of these machines is not known.

In FY 16-17, the incarceration rate for a Level 1, 3<sup>rd</sup> degree felony was 9.5%. The incarceration rate for a Level 4, 2<sup>nd</sup> degree felony was 30.9%.

**CONFERENCE ADOPTED ESTIMATE AFTER FINAL  
PASSAGE: Positive Indeterminate**

**Requested by: House**