

By Representative Rodriguez-Chomat

1 A bill to be entitled
2 An act relating to assault and battery;
3 amending s. 784.07, F.S., relating to
4 reclassification of offenses of assault or
5 battery upon law enforcement officers,
6 firefighters, emergency care providers, or
7 other specified officers; adding certain
8 licensed security officers for purposes of the
9 reclassified offenses; authorizing enhanced
10 penalties for the offenses of knowingly
11 committing an assault or battery, or aggravated
12 assault or aggravated battery, upon a licensed
13 security officer; authorizing minimum terms of
14 imprisonment for certain battery offenses
15 against a licensed security officer; reenacting
16 s. 39.039(1)(b), F.S., relating to
17 fingerprinting and photographing, s.
18 775.0877(1), F.S., relating to criminal
19 transmission of HIV, and s. 943.051(3)(b),
20 F.S., relating to criminal justice information
21 and fingerprinting, to incorporate said
22 amendment in references; amending s. 921.0012,
23 F.S., relating to the offense severity ranking
24 chart; ranking the new offenses; raising the
25 offenses of battery of law enforcement officer,
26 firefighter, emergency medical care provider,
27 or other specified officer from level 4 to
28 level 6; providing an effective date.

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30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsection (2) of section 784.07, Florida
2 Statutes, 1996 Supplement, is amended to read:

3 784.07 Assault or battery of law enforcement officers,
4 firefighters, emergency medical care providers, or other
5 specified officers; reclassification of offenses; minimum
6 sentences.--

7 (2) Whenever any person is charged with knowingly
8 committing an assault or battery upon a law enforcement
9 officer, a firefighter, an emergency medical care provider, a
10 traffic accident investigation officer as described in s.
11 316.640, a traffic infraction enforcement officer as described
12 in s. 318.141, a parking enforcement specialist as defined in
13 s. 316.640, ~~or~~ a security officer employed by the board of
14 trustees of a community college, or a licensed security
15 officer as defined in s. 493.6101(19), while the officer,
16 firefighter, emergency medical care provider, intake officer,
17 traffic accident investigation officer, traffic infraction
18 enforcement officer, parking enforcement specialist, or
19 security officer is engaged in the lawful performance of his
20 or her duties, the offense for which the person is charged
21 shall be reclassified as follows:

22 (a) In the case of assault, from a misdemeanor of the
23 second degree to a misdemeanor of the first degree.

24 (b) In the case of battery, from a misdemeanor of the
25 first degree to a felony of the third degree.

26 (c) In the case of aggravated assault, from a felony
27 of the third degree to a felony of the second degree.

28 (d) In the case of aggravated battery, from a felony
29 of the second degree to a felony of the first degree.

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1 (3) Any person who is convicted of a battery under
2 paragraph (2)(b) and, during the commission of the offense,
3 such person possessed:

4 (a) A "firearm" or "destructive device" as those terms
5 are defined in s. 790.001, shall be sentenced to a minimum
6 term of imprisonment of 3 years.

7 (b) A semiautomatic firearm and its high-capacity
8 detachable box magazine, as defined in s. 775.087(3), or a
9 machine gun as defined in s. 790.001, shall be sentenced to a
10 minimum term of imprisonment of 8 years.

11
12 Notwithstanding the provisions of s. 948.01, adjudication of
13 guilt or imposition of sentence shall not be suspended,
14 deferred, or withheld, and the defendant is not eligible for
15 statutory gain-time under s. 944.275 or any form of
16 discretionary early release, other than pardon or executive
17 clemency, or conditional medical release under s. 947.149,
18 prior to serving the minimum sentence.

19 Section 2. Subsection (19) of section 493.6101,
20 Florida Statutes, 1996 Supplement, reads:

21 493.6101 Definitions.--

22 (19) "Security officer" means any individual who, for
23 consideration, advertises as providing or performs bodyguard
24 services or otherwise guards persons or property; attempts to
25 prevent theft or unlawful taking of goods, wares, and
26 merchandise; or attempts to prevent the misappropriation or
27 concealment of goods, wares or merchandise, money, bonds,
28 stocks, choses in action, notes, or other documents, papers,
29 and articles of value or procurement of the return thereof.
30 The term also includes armored car personnel and those
31 personnel engaged in the transportation of prisoners.

1 Section 3. For the purpose of incorporating the
2 amendment to section 784.07, Florida Statutes, 1996
3 Supplement, in references thereto, the sections or
4 subdivisions of Florida Statutes set forth below are reenacted
5 to read:

6 39.039 Fingerprinting and photographing.--

7 (1)

8 (b) A child who is charged with or found to have
9 committed one of the following misdemeanors shall be
10 fingerprinted and the fingerprints shall be submitted to the
11 Department of Law Enforcement as provided in s. 943.051(3)(b):

12 1. Assault, as defined in s. 784.011.

13 2. Battery, as defined in s. 784.03.

14 3. Carrying a concealed weapon, as defined in s.
15 790.01(1).

16 4. Unlawful use of destructive devices or bombs, as
17 defined in s. 790.1615(1).

18 5. Negligent treatment of children, as defined in s.
19 827.05.

20 6. Assault on a law enforcement officer, a
21 firefighter, or other specified officers, as defined in s.
22 784.07(2)(a).

23 7. Open carrying of a weapon, as defined in s.
24 790.053.

25 8. Exposure of sexual organs, as defined in s. 800.03.

26 9. Unlawful possession of a firearm, as defined in s.
27 790.22(5).

28 10. Petit theft, as defined in s. 812.014.

29 11. Cruelty to animals, as defined in s. 828.12(1).

30 12. Arson, resulting in bodily harm to a firefighter,
31 as defined in s. 806.031(1).

1
2 A law enforcement agency may fingerprint and photograph a
3 child taken into custody upon probable cause that such child
4 has committed any other violation of law, as the agency deems
5 appropriate. Such fingerprint records and photographs shall be
6 retained by the law enforcement agency in a separate file, and
7 these records and all copies thereof must be marked "Juvenile
8 Confidential." These records shall not be available for public
9 disclosure and inspection under s. 119.07(1) except as
10 provided in ss. 39.045(9) and 943.053, but shall be available
11 to other law enforcement agencies, criminal justice agencies,
12 state attorneys, the courts, the child, the parents or legal
13 custodians of the child, their attorneys, and any other person
14 authorized by the court to have access to such records. These
15 records may, in the discretion of the court, be open to
16 inspection by anyone upon a showing of cause. The fingerprint
17 and photograph records shall be produced in the court whenever
18 directed by the court. Any photograph taken pursuant to this
19 section may be shown by a law enforcement officer to any
20 victim or witness of a crime for the purpose of identifying
21 the person who committed such crime.

22 775.0877 Criminal transmission of HIV; procedures;
23 penalties.--

24 (1) In any case in which a person has been convicted
25 of or has pled nolo contendere or guilty to, regardless of
26 whether adjudication is withheld, any of the following
27 offenses, or the attempt thereof, which offense or attempted
28 offense involves the transmission of body fluids from one
29 person to another:

- 30 (a) Section 794.011, relating to sexual battery,
31 (b) Section 826.04, relating to incest,

1 (c) Section 800.04(1), (2), and (3), relating to lewd,
2 lascivious, or indecent assault or act upon any person less
3 than 16 years of age,
4 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),
5 relating to assault,
6 (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),
7 relating to aggravated assault,
8 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),
9 relating to battery,
10 (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),
11 relating to aggravated battery,
12 (h) Section 827.03(1), relating to child abuse,
13 (i) Section 827.03(2), relating to aggravated child
14 abuse,
15 (j) Section 825.102(1), relating to abuse of an
16 elderly person or disabled adult,
17 (k) Section 825.102(2), relating to aggravated abuse
18 of an elderly person or disabled adult,
19 (l) Section 827.071, relating to sexual performance by
20 person less than 18 years of age,
21 (m) Sections 796.03, 796.07, and 796.08, relating to
22 prostitution, or
23 (n) Section 381.0041(11)(b), relating to donation of
24 blood, plasma, organs, skin, or other human tissue,
25
26 the court shall order the offender to undergo HIV testing, to
27 be performed under the direction of the Department of Health
28 and Rehabilitative Services in accordance with s. 381.004,
29 unless the offender has undergone HIV testing voluntarily or
30 pursuant to procedures established in s. 381.004(3)(i)6. or s.
31 951.27, or any other applicable law or rule providing for HIV

1 testing of criminal offenders or inmates, subsequent to his
2 arrest for an offense enumerated in paragraphs (a)-(n) for
3 which he was convicted or to which he pled nolo contendere or
4 guilty. The results of an HIV test performed on an offender
5 pursuant to this subsection are not admissible in any criminal
6 proceeding arising out of the alleged offense.

7 943.051 Criminal justice information; collection and
8 storage; fingerprinting.--

9 (3)

10 (b) A minor who is charged with or found to have
11 committed the following misdemeanors shall be fingerprinted
12 and the fingerprints shall be submitted to the department:

13 1. Assault, as defined in s. 784.011.

14 2. Battery, as defined in s. 784.03.

15 3. Carrying a concealed weapon, as defined in s.
16 790.01(1).

17 4. Unlawful use of destructive devices or bombs, as
18 defined in s. 790.1615(1).

19 5. Negligent treatment of children, as defined in s.
20 827.05.

21 6. Assault or battery on a law enforcement officer, a
22 firefighter, or other specified officers, as defined in s.
23 784.07(2)(a) and (b).

24 7. Open carrying of a weapon, as defined in s.
25 790.053.

26 8. Exposure of sexual organs, as defined in s. 800.03.

27 9. Unlawful possession of a firearm, as defined in s.
28 790.22(5).

29 10. Petit theft, as defined in s. 812.014(3).

30 11. Cruelty to animals, as defined in s. 828.12(1).

31 12. Arson, as defined in s. 806.031(1).

1 Section 4. Paragraphs (d) and (f) of subsection (3) of
2 section 921.0012, Florida Statutes, 1996 Supplement, are
3 amended to read:
4 921.0012 Sentencing guidelines offense levels; offense
5 severity ranking chart.--
6 (3) OFFENSE SEVERITY RANKING CHART
7 Florida Felony
8 Statute Degree Description
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11 (d) LEVEL 4
12 316.1935(2) 3rd Fleeing or attempting to elude
13 law enforcement officer resulting
14 in high-speed pursuit.
15 ~~784.07(2)(b)~~ 3rd ~~Battery of law enforcement~~
16 ~~officer, firefighter, intake~~
17 ~~officer, etc.~~
18 784.075 3rd Battery on detention or
19 commitment facility staff.
20 784.08(2)(c) 3rd Battery on a person 65 years of
21 age or older.
22 784.081(3) 3rd Battery on specified official or
23 employee.
24 784.082(3) 3rd Battery by detained person on
25 visitor or other detainee.
26 787.03(1) 3rd Interference with custody;
27 wrongly takes child from
28 appointed guardian.
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|----|-----------------|-----|-----------------------------------|
| 1 | 787.04(2) | 3rd | Take, entice, or remove child |
| 2 | | | beyond state limits with criminal |
| 3 | | | intent pending custody |
| 4 | | | proceedings. |
| 5 | 787.04(3) | 3rd | Carrying child beyond state lines |
| 6 | | | with criminal intent to avoid |
| 7 | | | producing child at custody |
| 8 | | | hearing or delivering to |
| 9 | | | designated person. |
| 10 | 790.115(1) | 3rd | Exhibiting firearm or weapon |
| 11 | | | within 1,000 feet of a school. |
| 12 | 790.115(2)(b) | 3rd | Possessing electric weapon or |
| 13 | | | device, destructive device, or |
| 14 | | | other weapon on school property. |
| 15 | 790.115(2)(c) | 3rd | Possessing firearm on school |
| 16 | | | property. |
| 17 | 810.02(4)(a) | 3rd | Burglary, or attempted burglary, |
| 18 | | | of an unoccupied structure; |
| 19 | | | unarmed; no assault or battery. |
| 20 | 810.02(4)(b) | 3rd | Burglary, or attempted burglary, |
| 21 | | | of an unoccupied conveyance; |
| 22 | | | unarmed; no assault or battery. |
| 23 | 810.06 | 3rd | Burglary; possession of tools. |
| 24 | 810.08(2)(c) | 3rd | Trespass on property, armed with |
| 25 | | | firearm or dangerous weapon. |
| 26 | 812.014(2)(c)3. | 3rd | Grand theft, 3rd degree \$10,000 |
| 27 | | | or more but less than \$20,000. |
| 28 | 812.014 | | |
| 29 | (2)(c)4.-10. | 3rd | Grand theft, 3rd degree, a will, |
| 30 | | | firearm, motor vehicle, |
| 31 | | | livestock, etc. |

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|----|----------------|-----|-----------------------------------|
| 1 | 817.563(1) | 3rd | Sell or deliver substance other |
| 2 | | | than controlled substance agreed |
| 3 | | | upon, excluding s. 893.03(5) |
| 4 | | | drugs. |
| 5 | 828.125(1) | 2nd | Kill, maim, or cause great bodily |
| 6 | | | harm or permanent breeding |
| 7 | | | disability to any registered |
| 8 | | | horse or cattle. |
| 9 | 837.02(1) | 3rd | Perjury in official proceedings. |
| 10 | 837.021(1) | 3rd | Make contradictory statements in |
| 11 | | | official proceedings. |
| 12 | 843.025 | 3rd | Deprive law enforcement, |
| 13 | | | correctional, or correctional |
| 14 | | | probation officer of means of |
| 15 | | | protection or communication. |
| 16 | 843.15(1)(a) | 3rd | Failure to appear while on bail |
| 17 | | | for felony (bond estreature or |
| 18 | | | bond jumping). |
| 19 | 874.05(1) | 3rd | Encouraging or recruiting another |
| 20 | | | to join a criminal street gang. |
| 21 | 893.13(2)(a)1. | 2nd | Purchase of cocaine (or other s. |
| 22 | | | 893.03(1)(a), (b), or (d), or |
| 23 | | | (2)(a) or (b) drugs). |
| 24 | 914.14(2) | 3rd | Witnesses accepting bribes. |
| 25 | 914.22(1) | 3rd | Force, threaten, etc., witness, |
| 26 | | | victim, or informant. |
| 27 | 914.23(2) | 3rd | Retaliation against a witness, |
| 28 | | | victim, or informant, no bodily |
| 29 | | | injury. |
| 30 | 918.12 | 3rd | Tampering with jurors. |
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| 1 | | | (f) LEVEL 6 |
| 2 | 316.027(1)(b) | 2nd | Accident involving death, failure |
| 3 | | | to stop; leaving scene. |
| 4 | 316.193(2)(b) | 3rd | Felony DUI, 4th or subsequent |
| 5 | | | conviction. |
| 6 | 775.0875(1) | 3rd | Taking firearm from law |
| 7 | | | enforcement officer. |
| 8 | 784.021(1)(a) | 3rd | Aggravated assault; deadly weapon |
| 9 | | | without intent to kill. |
| 10 | 784.021(1)(b) | 3rd | Aggravated assault; intent to |
| 11 | | | commit felony. |
| 12 | 784.048(3) | 3rd | Aggravated stalking; credible |
| 13 | | | threat. |
| 14 | <u>784.07(2)(b)</u> | <u>3rd</u> | <u>Battery of law enforcement</u> |
| 15 | | | <u>officer, firefighter, intake</u> |
| 16 | | | <u>officer, security officer, etc.</u> |
| 17 | 784.07(2)(c) | 2nd | Aggravated assault on law |
| 18 | | | enforcement officer. |
| 19 | 784.08(2)(b) | 2nd | Aggravated assault on a person 65 |
| 20 | | | years of age or older. |
| 21 | 784.081(2) | 2nd | Aggravated assault on specified |
| 22 | | | official or employee. |
| 23 | 784.082(2) | 2nd | Aggravated assault by detained |
| 24 | | | person on visitor or other |
| 25 | | | detainee. |
| 26 | 787.02(2) | 3rd | False imprisonment; restraining |
| 27 | | | with purpose other than those in |
| 28 | | | s. 787.01. |
| 29 | 790.115(2)(d) | 2nd | Discharging firearm or weapon on |
| 30 | | | school property. |
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| 1 | 790.161(2) | 2nd | Make, possess, or throw |
| 2 | | | destructive device with intent to |
| 3 | | | do bodily harm or damage |
| 4 | | | property. |
| 5 | 790.164(1) | 2nd | False report of deadly explosive |
| 6 | | | or act of arson or violence to |
| 7 | | | state property. |
| 8 | 790.19 | 2nd | Shooting or throwing deadly |
| 9 | | | missiles into dwellings, vessels, |
| 10 | | | or vehicles. |
| 11 | 794.011(8)(a) | 3rd | Solicitation of minor to |
| 12 | | | participate in sexual activity by |
| 13 | | | custodial adult. |
| 14 | 794.05(1) | 2nd | Unlawful sexual activity with |
| 15 | | | specified minor. |
| 16 | 806.031(2) | 2nd | Arson resulting in great bodily |
| 17 | | | harm to firefighter or any other |
| 18 | | | person. |
| 19 | 810.02(3)(c) | 2nd | Burglary of occupied structure; |
| 20 | | | unarmed; no assault or battery. |
| 21 | 812.014(2)(b) | 2nd | Property stolen \$20,000 or more, |
| 22 | | | but less than \$100,000, grand |
| 23 | | | theft in 2nd degree. |
| 24 | 812.13(2)(c) | 2nd | Robbery, no firearm or other |
| 25 | | | weapon (strong-arm robbery). |
| 26 | 817.034(4)(a)1. | 1st | Communications fraud, value |
| 27 | | | greater than \$50,000. |
| 28 | 817.4821(5) | 2nd | Possess cloning paraphernalia |
| 29 | | | with intent to create cloned |
| 30 | | | cellular telephones. |
| 31 | | | |

552-134-97

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|----|----------------|-----|-----------------------------------|
| 1 | 825.102(1) | 3rd | Abuse of an elderly person or |
| 2 | | | disabled adult. |
| 3 | 825.102(3)(c) | 3rd | Neglect of an elderly person or |
| 4 | | | disabled adult. |
| 5 | 825.1025(3) | 3rd | Lewd or lascivious molestation of |
| 6 | | | an elderly person or disabled |
| 7 | | | adult. |
| 8 | 825.103(2)(c) | 3rd | Exploiting an elderly person or |
| 9 | | | disabled adult and property is |
| 10 | | | valued at \$100 or more, but less |
| 11 | | | than \$20,000. |
| 12 | 827.03(1) | 3rd | Abuse of a child. |
| 13 | 827.03(3)(c) | 3rd | Neglect of a child. |
| 14 | 827.071(2)&(3) | 2nd | Use or induce a child in a sexual |
| 15 | | | performance, or promote or direct |
| 16 | | | such performance. |
| 17 | 836.05 | 2nd | Threats; extortion. |
| 18 | 836.10 | 2nd | Written threats to kill or do |
| 19 | | | bodily injury. |
| 20 | 843.12 | 3rd | Aids or assists person to escape. |
| 21 | 914.23 | 2nd | Retaliation against a witness, |
| 22 | | | victim, or informant, with bodily |
| 23 | | | injury. |
| 24 | 944.35(3)(a)2. | 3rd | Committing malicious battery upon |
| 25 | | | or inflicting cruel or inhuman |
| 26 | | | treatment on an inmate or |
| 27 | | | offender on community |
| 28 | | | supervision, resulting in great |
| 29 | | | bodily harm. |
| 30 | 944.40 | 2nd | Escapes. |
| 31 | | | |

552-134-97

- 1 944.46 3rd Harboring, concealing, aiding
- 2 escaped prisoners.
- 3 944.47(1)(a)5. 2nd Introduction of contraband
- 4 (firearm, weapon, or explosive)
- 5 into correctional facility.
- 6 951.22(1) 3rd Intoxicating drug, firearm, or
- 7 weapon introduced into county
- 8 facility.

9
10 Section 5. This act shall take effect October 1, 1997.

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13 HOUSE SUMMARY

14 Revises provisions relating to reclassification of

15 offenses of assault or battery upon law enforcement

16 officers, firefighters, emergency care providers, or

17 other specified officers. Adds certain licensed security

18 officers for purposes of the reclassified offenses.

19 Authorizes enhanced penalties and minimum terms of

20 imprisonment for certain offenses. Revises the offense

21 severity ranking chart to rank the new offenses. Raises

22 the offenses of battery of law enforcement officer,

23 firefighter, emergency medical care provider, or other

24 specified officers from level 4 to level 6.

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