

By Senator Saunders

25-756-99

See CS for HB 45

1 A bill to be entitled
2 An act relating to correctional facilities;
3 creating s. 784.078, F.S.; defining the terms
4 "facility" and "employee"; defining the offense
5 of battery of facility employee by throwing,
6 tossing, or expelling certain fluids or
7 materials on an employee of a correctional
8 facility of the state or local government or a
9 secure facility operated and maintained by the
10 Department of Corrections or the Department of
11 Juvenile Justice or other facility employee, so
12 as to cause or attempt to cause such employee
13 to come into contact with the fluid or
14 material; providing penalties; amending s.
15 921.0022, F.S.; providing for ranking the
16 offense of battery of a facility employee for
17 purposes of the Criminal Punishment Code
18 offense severity ranking chart; amending s.
19 945.35, F.S.; providing an educational
20 requirement for correctional facility inmates
21 on communicable diseases; providing, upon the
22 request of a correctional officer or other
23 employee or any unincarcerated person lawfully
24 present in a correctional facility, for testing
25 of such persons and any inmate who may have
26 transmitted a communicable disease to such
27 persons; providing for results to be
28 communicated to affected parties; providing for
29 access to health care; providing that test
30 results are inadmissible in court cases;
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1 requiring the department to adopt rules;
2 providing an effective date.

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

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6 Section 1. Section 784.078, Florida Statutes, is
7 created to read:

8 784.078 Battery of facility employee by throwing,
9 tossing, or expelling certain fluids or materials.--

10 (1) As used in this section, the term "facility" means
11 a state correctional institution defined in s. 944.02(6); a
12 private correctional facility defined in s. 944.710 or under
13 chapter 957; a county, municipal, or regional jail or other
14 detention facility of local government under chapter 950 or
15 chapter 951; or a secure facility operated and maintained by
16 the Department of Corrections or the Department of Juvenile
17 Justice.

18 (2)(a) As used in this section, the term "employee"
19 means any person employed by or performing contractual
20 services for a public or private entity operating a facility.

21 (b) "Employee" includes any person who is a parole
22 examiner with the Florida Parole Commission.

23 (3)(a) It is unlawful for any person, while being
24 detained in a facility and with intent to harass, annoy,
25 threaten, or alarm a person in a facility whom he or she knows
26 or reasonably should know to be an employee of such facility,
27 to cause or attempt to cause such employee to come into
28 contact with blood, masticated food, regurgitated food,
29 saliva, seminal fluid, or urine or feces, whether by throwing,
30 tossing, or expelling such fluid or material.

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1 (b) Any person who violates paragraph (a) commits
2 battery of a facility employee, a felony of the third degree,
3 punishable as provided in s. 775.082, s. 775.083, or s.
4 775.084.

5 Section 2. Paragraph (d) of subsection (3) of section
6 921.0022, Florida Statutes, 1998 Supplement, is amended to
7 read:

8 921.0022 Criminal Punishment Code; offense severity
9 ranking chart.--

10 (3) OFFENSE SEVERITY RANKING CHART

11	12	13	14
	Florida	Felony	
	Statute	Degree	Description
15			
16			(d) LEVEL 4
17	316.1935(3)	2nd	Driving at high speed or with
18			wanton disregard for safety while
19			fleeing or attempting to elude
20			law enforcement officer who is in
21			a marked patrol vehicle with
22			siren and lights activated.
23	784.07(2)(b)	3rd	Battery of law enforcement
24			officer, firefighter, intake
25			officer, etc.
26	784.075	3rd	Battery on detention or
27			commitment facility staff.
28	<u>784.078</u>	<u>3rd</u>	<u>Battery of facility employee by</u>
29			<u>throwing, tossing, or expelling</u>
30			<u>certain fluids or materials.</u>
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1	784.08(2)(c)	3rd	Battery on a person 65 years of
2			age or older.
3	784.081(3)	3rd	Battery on specified official or
4			employee.
5	784.082(3)	3rd	Battery by detained person on
6			visitor or other detainee.
7	784.083(3)	3rd	Battery on code inspector.
8	787.03(1)	3rd	Interference with custody;
9			wrongly takes child from
10			appointed guardian.
11	787.04(2)	3rd	Take, entice, or remove child
12			beyond state limits with criminal
13			intent pending custody
14			proceedings.
15	787.04(3)	3rd	Carrying child beyond state lines
16			with criminal intent to avoid
17			producing child at custody
18			hearing or delivering to
19			designated person.
20	790.115(1)	3rd	Exhibiting firearm or weapon
21			within 1,000 feet of a school.
22	790.115(2)(b)	3rd	Possessing electric weapon or
23			device, destructive device, or
24			other weapon on school property.
25	790.115(2)(c)	3rd	Possessing firearm on school
26			property.
27	810.02(4)(a)	3rd	Burglary, or attempted burglary,
28			of an unoccupied structure;
29			unarmed; no assault or battery.
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1	810.02(4)(b)	3rd	Burglary, or attempted burglary,
2			of an unoccupied conveyance;
3			unarmed; no assault or battery.
4	810.06	3rd	Burglary; possession of tools.
5	810.08(2)(c)	3rd	Trespass on property, armed with
6			firearm or dangerous weapon.
7	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
8			or more but less than \$20,000.
9	812.014		
10	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
11			firearm, motor vehicle,
12			livestock, etc.
13	817.563(1)	3rd	Sell or deliver substance other
14			than controlled substance agreed
15			upon, excluding s. 893.03(5)
16			drugs.
17	828.125(1)	2nd	Kill, maim, or cause great bodily
18			harm or permanent breeding
19			disability to any registered
20			horse or cattle.
21	837.02(1)	3rd	Perjury in official proceedings.
22	837.021(1)	3rd	Make contradictory statements in
23			official proceedings.
24	843.025	3rd	Deprive law enforcement,
25			correctional, or correctional
26			probation officer of means of
27			protection or communication.
28	843.15(1)(a)	3rd	Failure to appear while on bail
29			for felony (bond estreature or
30			bond jumping).
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1 874.05(1) 3rd Encouraging or recruiting another
2 to join a criminal street gang.
3 893.13(2)(a)1. 2nd Purchase of cocaine (or other s.
4 893.03(1)(a), (b), or (d), or
5 (2)(a) or (b) drugs).
6 914.14(2) 3rd Witnesses accepting bribes.
7 914.22(1) 3rd Force, threaten, etc., witness,
8 victim, or informant.
9 914.23(2) 3rd Retaliation against a witness,
10 victim, or informant, no bodily
11 injury.
12 918.12 3rd Tampering with jurors.
13 Section 3. Section 945.35, Florida Statutes, is
14 amended to read:
15 945.35 Requirement for education on human
16 immunodeficiency virus, and acquired immune deficiency
17 syndrome, and other communicable diseases.--
18 (1) The Department of Corrections, in conjunction with
19 the Department of Health ~~and Rehabilitative Services~~, shall
20 establish a mandatory introductory and continuing education
21 program on human immunodeficiency virus, and acquired immune
22 deficiency syndrome, and other communicable diseases for all
23 inmates. Programs shall be specifically designed for inmates
24 while incarcerated and in preparation for release into the
25 community. Consideration shall be given to cultural and other
26 relevant differences among inmates in the development of
27 educational materials and shall include emphasis on behavior
28 and attitude change. The education program shall be
29 continuously updated to reflect the latest medical information
30 available.
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1 (2) The Department of Corrections, in conjunction with
2 the Department of Health ~~and Rehabilitative Services~~, shall
3 establish a mandatory education program on human
4 immunodeficiency virus, ~~and~~ acquired immune deficiency
5 syndrome, and other communicable diseases with an emphasis on
6 appropriate behavior and attitude change to be offered on an
7 annual basis to all staff in correctional facilities,
8 including new staff.

9 (3) When there is evidence that an inmate, while in
10 the custody of the department, has engaged in behavior which
11 places the inmate at a high risk of transmitting or
12 contracting a human immunodeficiency disorder or other
13 communicable disease, the department may begin a testing
14 program which is consistent with guidelines of the Centers for
15 Disease Control and Prevention and recommendations of the
16 Correctional Medical Authority. For purposes of this
17 subsection, "high-risk behavior" includes:

- 18 (a) Sexual contact with any person.
19 (b) An altercation involving exposure to body fluids.
20 (c) The use of intravenous drugs.
21 (d) Tattooing.
22 (e) Any other activity medically known to transmit the
23 virus.

24 (4) The results of such tests shall become a part of
25 that inmate's medical file, accessible only to persons
26 designated by agency rule.

27 (5) If the department has reason to believe that an
28 inmate may have intentionally or unintentionally transmitted a
29 communicable disease to any correctional officer or any
30 employee of the department, or to any person lawfully present
31 in a correctional facility who is not incarcerated there, the

1 department shall, upon request of the affected correctional
2 officer, employee, or other person, cause the inmate who may
3 have transmitted the communicable disease to be promptly
4 tested for its presence and communicate the results as soon as
5 practicable to the person requesting the test be performed,
6 and to the inmate tested if the inmate so requests.

7 (6) If the results of the test pursuant to subsection
8 (5) indicate the presence of a communicable disease, the
9 department shall provide appropriate access for counseling,
10 health care, and support services to the affected correctional
11 officer, employee, or other person, and to the inmate tested.

12 (7) The results of a test under subsections (5) and
13 (6) are inadmissible against the person tested in any federal
14 or state civil or criminal case or proceeding.

15 (8) The department shall adopt rules to implement
16 subsections (5), (6), and (7). Such rules shall require that
17 the results of any tests are communicated only to a person
18 requesting the test and the inmate tested. Such rules shall
19 also provide for procedures designed to protect the privacy of
20 a person requesting that the test be performed and the privacy
21 of the inmate tested.

22 (9)(5) The department shall establish policies
23 consistent with guidelines of the Centers for Disease Control
24 and Prevention and recommendations of the Correctional Medical
25 Authority on the housing, physical contact, dining,
26 recreation, and exercise hours or locations for inmates with
27 immunodeficiency disorders as are medically indicated and
28 consistent with the proper operation of its facilities.

29 (10)(6) The department shall report to the Legislature
30 by March 1 each year as to the implementation of this program
31 and the participation by inmates and staff.

1 Section 4. This act shall take effect October 1, 1999.

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4 LEGISLATIVE SUMMARY

5 Defines the elements of the offense of battery by

6 throwing, tossing, or expelling certain fluids or

7 materials on an employee of a correctional facility of

8 the state or local government, or a secure facility

9 operated and maintained by the Department of Corrections

10 or the Department of Juvenile Justice, so as to cause or

11 attempt to cause such employee to come into contact with

12 the fluid or material. Provides penalties. Ranks the

13 offense under level 4 of the severity ranking chart of

14 the Criminal Punishment Code. Requires that an inmate be

15 tested if an employee of the Department of Corrections

16 believes the inmate may have transmitted a communicable

17 disease to the employee. Requires that the department

18 adopt rules.

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