

By Senator Saunders

25-112-00

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 as defined in s. 944.02(6); a  
12 private correctional facility as defined in s. 944.710 or  
13 under chapter 957; a county, municipal, or regional jail or  
14 other detention facility of local government under chapter 950  
15 or chapter 951; or a secure facility operated and maintained  
16 by the Department of Corrections or the Department of Juvenile  
17 Justice.

18           (2) As used in this section, the term "employee" means  
19 any person employed by or performing contractual services for  
20 a public or private entity operating a facility, including any  
21 person who is a parole examiner with the Florida Parole  
22 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, is amended to read:

7           921.0022 Criminal Punishment Code; offense severity  
8 ranking chart.--

9           (3) OFFENSE SEVERITY RANKING CHART

10	11	12	13	14
	Florida	Felony		
	Statute	Degree		Description
15			(d) LEVEL 4	
16	316.1935(3)	2nd		Driving at high speed or with
17				wanton disregard for safety while
18				fleeing or attempting to elude
19				law enforcement officer who is in
20				a marked patrol vehicle with
21				siren and lights activated.
22	784.07(2)(b)	3rd		Battery of law enforcement
23				officer, firefighter, intake
24				officer, etc.
25	784.075	3rd		Battery on detention or
26				commitment facility staff.
27	<u>784.078</u>	<u>3rd</u>		<u>Battery of facility employee by</u>
28				<u>throwing, tossing, or expelling</u>
29				<u>certain fluids or materials.</u>
30	784.08(2)(c)	3rd		Battery on a person 65 years of
31				age or older.

1	784.081(3)	3rd	Battery on specified official or
2			employee.
3	784.082(3)	3rd	Battery by detained person on
4			visitor or other detainee.
5	784.083(3)	3rd	Battery on code inspector.
6	787.03(1)	3rd	Interference with custody;
7			wrongly takes child from
8			appointed guardian.
9	787.04(2)	3rd	Take, entice, or remove child
10			beyond state limits with criminal
11			intent pending custody
12			proceedings.
13	787.04(3)	3rd	Carrying child beyond state lines
14			with criminal intent to avoid
15			producing child at custody
16			hearing or delivering to
17			designated person.
18	790.115(1)	3rd	Exhibiting firearm or weapon
19			within 1,000 feet of a school.
20	790.115(2)(b)	3rd	Possessing electric weapon or
21			device, destructive device, or
22			other weapon on school property.
23	790.115(2)(c)	3rd	Possessing firearm on school
24			property.
25	800.04(7)(c)	3rd	Lewd or lascivious exhibition;
26			offender less than 18 years.
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, shall establish a mandatory  
20 introductory and continuing education program on human  
21 immunodeficiency virus,and acquired immune deficiency  
22 syndrome, and other communicable diseases for all inmates.  
23 Programs shall be specifically designed for inmates while  
24 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, shall establish a mandatory  
3 education program on human immunodeficiency virus,and  
4 acquired immune deficiency syndrome, and other communicable  
5 diseases with an emphasis on appropriate behavior and attitude  
6 change to be offered on an annual basis to all staff in  
7 correctional facilities, including new staff.

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

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

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

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

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

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

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

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

21 (9)(5) The department shall establish policies  
22 consistent with guidelines of the Centers for Disease Control  
23 and Prevention and recommendations of the Correctional Medical  
24 Authority on the housing, physical contact, dining,  
25 recreation, and exercise hours or locations for inmates with  
26 immunodeficiency disorders as are medically indicated and  
27 consistent with the proper operation of its facilities.

28 (10)(6) The department shall report to the Legislature  
29 by March 1 each year as to the implementation of this program  
30 and the participation by inmates and staff.

31 Section 4. This act shall take effect October 1, 2000.



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SENATE SUMMARY

Defines the elements of the offense of battery by throwing, tossing, or expelling certain fluids or materials on an employee of a correctional facility of the state or local government, or a secure facility operated and maintained by the Department of Corrections or the Department of Juvenile Justice, so as to cause or attempt to cause such employee to come into contact with the fluid or material. Provides penalties. Ranks the offense under level 4 of the severity ranking chart of the Criminal Punishment Code. Requires that an inmate be tested if an employee of the Department of Corrections believes the inmate may have transmitted a communicable disease to the employee. Requires that the department adopt rules.