

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;  
31

1           requiring the department to adopt rules;  
2           providing an effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
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"  
19 includes any person employed by or performing contractual  
20 services for a public or private entity operating a facility  
21 or any person employed by or performing contractual services  
22 for the corporation operating prison industry enhancement  
23 programs or correctional work programs under part II of  
24 chapter 946.

25           (3)(a) It is unlawful for any person, while being  
26 detained in a facility and with intent to harass, annoy,  
27 threaten, or alarm a person in a facility whom he or she knows  
28 or reasonably should know to be an employee of such facility,  
29 to cause or attempt to cause such employee to come into  
30 contact with blood, masticated food, regurgitated food,

31

1 saliva, seminal fluid, or urine or feces, whether by throwing,  
2 tossing, or expelling such fluid or material.

3 (b) Any person who violates paragraph (a) commits  
4 battery of a facility employee, a felony of the third degree,  
5 punishable as provided in s. 775.082, s. 775.083, or s.  
6 775.084.

7 Section 2. Paragraph (d) of subsection (3) of section  
8 921.0022, Florida Statutes, is amended to read:

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

11 (3) OFFENSE SEVERITY RANKING CHART

13	Florida	Felony	
14	Statute	Degree	Description
17			(d) LEVEL 4
18	316.1935(3)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a marked patrol vehicle with siren and lights activated.
24	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
27	784.075	3rd	Battery on detention or commitment facility staff.
29	<u>784.078</u>	<u>3rd</u>	<u>Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.</u>

1	784.08(2)(c)	3rd	Battery on a person 65 years of
3	784.081(3)	3rd	Battery on specified official or
4			employee.
6			visitor or other detainee.
7	784.083(3)	3rd	Battery on code inspector.
9			wrongly takes child from
10			appointed guardian.
12			beyond state limits with criminal
13			intent pending custody
15	787.04(3)	3rd	Carrying child beyond state lines
16			with criminal intent to avoid
18			hearing or delivering to
19			designated person.
21			within 1,000 feet of a school.
22	790.115(2)(b)	3rd	Possessing electric weapon or
24			other weapon on school property.
25	790.115(2)(c)	3rd	Possessing firearm on school
27	800.04(7)(c)	3rd	Lewd or lascivious exhibition;
28			offender less than 18 years.
30			of an unoccupied structure;
31			unarmed; no assault or battery.

**CODING:** Words        are deletions; words underlined

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).
31			

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.

31

1           (2) The Department of Corrections, in conjunction with  
 3 education program on human immunodeficiency virus, ~~—~~  
 4 acquired immune deficiency syndrome, and other communicable  
diseases with an emphasis on appropriate behavior and attitude  
 7 correctional facilities, including new staff.

8           (3) When there is evidence that an inmate, while in  
 10 places the inmate at a high risk of transmitting or  
 11 contracting a human immunodeficiency disorder \_\_\_\_\_  
 12 communicable disease  
 13 program which is consistent with guidelines of the Centers for  
 14 Disease Control and Prevention and recommendations of the

16 subsection, "high-risk behavior" includes:

- 17           (a) Sexual contact with any person.
- 19           (c) The use of intravenous drugs.
- 20           (d) Tattooing.

22 virus.

23           (4) The results of such tests shall become a part of  
 25 designated by agency rule.

26 \_\_\_\_\_  
 27 inmate may have intentionally or unintentionally transmitted a  
communicable disease to any correctional officer or any  
 29 \_\_\_\_\_  
 30 in a correctional facility who is not incarcerated there, the  
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.