

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"
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,

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1 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

Florida Statute	Felony Degree	Description
		(d) LEVEL 4
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.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
784.075	3rd	Battery on detention or commitment facility staff.
<u>784.078</u>	<u>3rd</u>	<u>Battery of facility employee by</u> <u>throwing, tossing, or expelling</u> <u>certain fluids or materials.</u>

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	800.04(7)(c)	3rd	Lewd or lascivious exhibition;
28			offender less than 18 years.
29	810.02(4)(a)	3rd	Burglary, or attempted burglary,
30			of an unoccupied structure;
31			unarmed; no assault or battery.

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.