

By Representative Harrington

1   A bill to be entitled  
 2           An act relating to correctional facilities;  
 3           creating s. 784.078, F.S.; defining "facility"  
 4           and "employee"; defining the offense of battery  
 5           of facility employee by throwing, tossing, or  
 6           expelling certain fluids or materials on an  
 7           employee of a correctional facility of the  
 8           state or local government or a secure facility  
 9           operated and maintained by the Department of  
 10          Corrections or the Department of Juvenile  
 11          Justice or other facility employee, so as to  
 12          cause or attempt to cause such employee to come  
 13          into contact with the fluid or material;  
 14          providing penalties; amending s. 921.0022,  
 15          F.S.; providing for ranking the offense of  
 16          battery of a facility employee for purposes of  
 17          the Criminal Punishment Code offense severity  
 18          ranking chart; amending s. 945.35, F.S.;  
 19          providing an educational requirement for  
 20          correctional facility inmates on communicable  
 21          diseases; providing, upon the request of a  
 22          correctional officer or other employee or any  
 23          unincarcerated person lawfully present in a  
 24          correctional facility, for testing of such  
 25          persons and any inmate who may have transmitted  
 26          a communicable disease to such persons;  
 27          providing for results to be communicated to  
 28          affected parties; providing for access to  
 29          health care; providing that test results are  
 30          inadmissible in court cases; requiring the  
 31

1 department to promulgate rules; providing an  
2 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 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 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 the prison industry enhancement  
23 programs or the correctional work programs, pursuant to part  
24 II of chapter 946.

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

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

1 contact with blood, masticated food, regurgitated food,  
2 saliva, seminal fluid, or urine or feces, whether by throwing,  
3 tossing, or expelling such fluid or material.

4 (b) Any person who violates paragraph (a) commits  
5 battery of a facility employee, a felony of the third degree,  
6 punishable as provided in s. 775.082, s. 775.083, or s.  
7 775.084.

8 Section 2. Paragraph (d) of subsection (3) of section  
9 921.0022, Florida Statutes, is amended to read:

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

12 (3) OFFENSE SEVERITY RANKING CHART

13

14 Florida	Felony	
15 Statute	Degree	Description
		(d) LEVEL 4
18 316.1935(3)	2nd	Driving at high speed or with 19 wanton disregard for safety while 20 fleeing or attempting to elude 21 law enforcement officer who is in 22 a marked patrol vehicle with 23 siren and lights activated.
24 784.07(2)(b)	3rd	Battery of law enforcement 25 officer, firefighter, intake 26 officer, etc.
27 784.075	3rd	Battery on detention or 28 commitment facility staff.
29 <u>784.078</u>	<u>3rd</u>	<u>Battery of facility employee by</u> 30 <u>throwing, tossing, or expelling</u> 31 <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	784.085	3rd	Battery of child by throwing,
9			tossing, projecting, or expelling
10			certain fluids or materials.
11	787.03(1)	3rd	Interference with custody;
12			wrongly takes child from
13			appointed guardian.
14	787.04(2)	3rd	Take, entice, or remove child
15			beyond state limits with criminal
16			intent pending custody
17			proceedings.
18	787.04(3)	3rd	Carrying child beyond state lines
19			with criminal intent to avoid
20			producing child at custody
21			hearing or delivering to
22			designated person.
23	790.115(1)	3rd	Exhibiting firearm or weapon
24			within 1,000 feet of a school.
25	790.115(2)(b)	3rd	Possessing electric weapon or
26			device, destructive device, or
27			other weapon on school property.
28	790.115(2)(c)	3rd	Possessing firearm on school
29			property.
30	800.04(7)(d)	3rd	Lewd or lascivious exhibition;
31			offender less than 18 years.

1	810.02(4)(a)	3rd	Burglary, or attempted burglary,
2			of an unoccupied structure;
3			unarmed; no assault or battery.
4	810.02(4)(b)	3rd	Burglary, or attempted burglary,
5			of an unoccupied conveyance;
6			unarmed; no assault or battery.
7	810.06	3rd	Burglary; possession of tools.
8	810.08(2)(c)	3rd	Trespass on property, armed with
9			firearm or dangerous weapon.
10	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
11			or more but less than \$20,000.
12	812.014		
13	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
14			firearm, motor vehicle,
15			livestock, etc.
16	817.563(1)	3rd	Sell or deliver substance other
17			than controlled substance agreed
18			upon, excluding s. 893.03(5)
19			drugs.
20	828.125(1)	2nd	Kill, maim, or cause great bodily
21			harm or permanent breeding
22			disability to any registered
23			horse or cattle.
24	837.02(1)	3rd	Perjury in official proceedings.
25	837.021(1)	3rd	Make contradictory statements in
26			official proceedings.
27	843.021	3rd	Possession of a concealed
28			handcuff key by a person in
29			custody.
30			
31			

1	843.025	3rd	Deprive law enforcement,
2			correctional, or correctional
3			probation officer of means of
4			protection or communication.
5	843.15(1)(a)	3rd	Failure to appear while on bail
6			for felony (bond estreature or
7			bond jumping).
8	874.05(1)	3rd	Encouraging or recruiting another
9			to join a criminal street gang.
10	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
11			893.03(1)(a), (b), or (d),
12			(2)(a), (2)(b), or (2)(c)4.
13			drugs).
14	914.14(2)	3rd	Witnesses accepting bribes.
15	914.22(1)	3rd	Force, threaten, etc., witness,
16			victim, or informant.
17	914.23(2)	3rd	Retaliation against a witness,
18			victim, or informant, no bodily
19			injury.
20	918.12	3rd	Tampering with jurors.

21 Section 3. Section 945.35, Florida Statutes, is  
22 amended to read:

23 945.35 Requirement for education on human  
24 immunodeficiency virus,~~and~~ acquired immune deficiency  
25 syndrome, and other communicable diseases.--

26 (1) The Department of Corrections, in conjunction with  
27 the Department of Health, shall establish a mandatory  
28 introductory and continuing education program on human  
29 immunodeficiency virus,~~and~~ acquired immune deficiency  
30 syndrome, and other communicable diseases for all inmates.  
31 Programs shall be specifically designed for inmates while

1 incarcerated and in preparation for release into the  
2 community. Consideration shall be given to cultural and other  
3 relevant differences among inmates in the development of  
4 educational materials and shall include emphasis on behavior  
5 and attitude change. The education program shall be  
6 continuously updated to reflect the latest medical information  
7 available.

8 (2) The Department of Corrections, in conjunction with  
9 the Department of Health, shall establish a mandatory  
10 education program on human immunodeficiency virus, ~~and~~  
11 acquired immune deficiency syndrome, and other communicable  
12 diseases with an emphasis on appropriate behavior and attitude  
13 change to be offered on an annual basis to all staff in  
14 correctional facilities, including new staff.

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

- 24 (a) Sexual contact with any person.  
25 (b) An altercation involving exposure to body fluids.  
26 (c) The use of intravenous drugs.  
27 (d) Tattooing.  
28 (e) Any other activity medically known to transmit the  
29 virus.

30  
31

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

4           (5) If the department has reason to believe that an  
5 inmate may have intentionally or unintentionally transmitted a  
6 communicable disease to any correctional officer or any  
7 employee of the department, or to any person lawfully present  
8 in a correctional facility who is not incarcerated there, the  
9 department shall, upon request of the affected correctional  
10 officer, employee, or other person, cause the inmate who may  
11 have transmitted the communicable disease to be promptly  
12 tested for its presence and communicate the results as soon as  
13 practicable to the person requesting the test be performed,  
14 and to the inmate tested if the inmate so requests.

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

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

23           (8) The department shall promulgate rules to implement  
24 subsections (5), (6), and (7). Such rules shall require that  
25 the results of any tests are communicated only to a person  
26 requesting the test and the inmate tested. Such rules shall  
27 also provide for procedures designed to protect the privacy of  
28 a person requesting that the test be performed and the privacy  
29 of the inmate tested.

30           ~~(9)~~<sup>(5)</sup> The department shall establish policies  
31 consistent with guidelines of the Centers for Disease Control



1 and Prevention and recommendations of the Correctional Medical  
2 Authority on the housing, physical contact, dining,  
3 recreation, and exercise hours or locations for inmates with  
4 immunodeficiency disorders as are medically indicated and  
5 consistent with the proper operation of its facilities.

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

9 Section 4. This act shall take effect October 1, 2001.

10 \*\*\*\*\*

11  
12 HOUSE SUMMARY

13 Defines the offense of battery of facility employee by  
14 throwing, tossing, or expelling certain fluids or  
15 materials on an employee of a correctional facility of  
16 the state or local government or a secure facility  
17 operated and maintained by the Department of Corrections  
18 or the Department of Juvenile Justice or other facility  
19 employee, so as to cause or attempt to cause such  
20 employee to come into contact with the fluid or material.  
21 Provides penalties. Provides for ranking the offense for  
22 purposes of the Criminal Punishment Code offense severity  
23 ranking chart. Provides an educational requirement for  
24 correctional facility inmates on communicable diseases.  
25 Provides, upon the request of a correctional officer or  
26 other employee or any unincarcerated person lawfully  
27 present in a correctional facility, for testing of such  
28 persons and any inmate who may have transmitted a  
29 communicable disease to such persons. Provides for  
30 results to be communicated to affected parties. Provides  
31 for access to health care. Provides that test results are  
inadmissible in court cases.