

By Senator Saunders

25-1315-01

See HB 131

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 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

14 Florida Statute	Felony Degree	Description
17		(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.
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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 estreatment 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.

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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)~~⁽⁵⁾ 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.

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12 LEGISLATIVE 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.