

By Representative Gelber

1                                   A bill to be entitled  
2           An act relating to assault and battery;  
3           creating s. 784.074, F.S.; providing enhanced  
4           penalties for the offenses of assault, battery,  
5           aggravated assault, or aggravated battery on a  
6           security officer licensed by the Department of  
7           State or on an investigator employed by the  
8           Bureau of Regulation and Enforcement of the  
9           Department of State; providing definitions;  
10          specifying minimum terms of imprisonment;  
11          providing that a person convicted of a  
12          violation under the act may not have  
13          adjudication of guilt or imposition of sentence  
14          suspended or withheld; providing that such  
15          person is ineligible for early release, except  
16          under certain circumstances; amending s.  
17          784.081, F.S.; increasing penalties for an  
18          assault or battery committed against a  
19          municipal or county parks or recreation  
20          department employee; providing an effective  
21          date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

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25           Section 1. Section 784.074, Florida Statutes, is  
26           created to read:

27           784.074 Assault or battery of a security officer or  
28           investigator licensed or employed by the Department of State  
29           or licensed under chapter 493; reclassification of offenses;  
30           minimum sentences.--

31

1       (1) As used in this section, the term "security  
2 officer" means an individual licensed under chapter 493 who,  
3 for consideration, provides or advertises as providing  
4 bodyguard services or otherwise guards persons or property;  
5 attempts to prevent theft or unlawful taking of goods, wares,  
6 and merchandise; or attempts to prevent the misappropriation  
7 or concealment of goods, wares or merchandise, money, bonds,  
8 stocks, choses in action, notes, or other documents, papers,  
9 and articles of value or procurement of the return thereof.  
10 The term also includes armored car personnel and personnel  
11 engaged in transporting prisoners.

12       (2) Whenever any person is charged with knowingly  
13 committing an assault or battery upon a security officer who  
14 is licensed by the Department of State under chapter 493, or  
15 upon an investigator employed by the Bureau of Regulation and  
16 Enforcement of the Division of Licensing within the Department  
17 of State, while the officer or investigator is engaged in the  
18 lawful performance of his or her duties, the offense for which  
19 the person is charged shall be reclassified as follows:

20       (a) In the case of assault, from a misdemeanor of the  
21 second degree to a misdemeanor of the first degree.

22       (b) In the case of battery, from a misdemeanor of the  
23 first degree to a felony of the third degree.

24       (c) In the case of aggravated assault, from a felony  
25 of the third degree to a felony of the second degree.  
26 Notwithstanding any other law, any person convicted of  
27 aggravated assault under this section shall be sentenced to a  
28 minimum term of imprisonment of 3 years.

29       (d) In the case of aggravated battery, from a felony  
30 of the second degree to a felony of the first degree.  
31 Notwithstanding any other law, any person convicted of

1 aggravated battery under this section shall be sentenced to a  
2 minimum term of imprisonment of 5 years.

3 (3) Any person who is convicted of a battery under  
4 paragraph (2)(b) and, during the commission of the offense,  
5 had in his or her possession:

6 (a) A "firearm" or "destructive device" as those terms  
7 are defined in s. 790.001, shall be sentenced to a minimum  
8 term of imprisonment of 3 years.

9 (b) A semiautomatic firearm and its high-capacity  
10 detachable box magazine, as defined in s. 775.087(3), or a  
11 machine gun as defined in s. 790.001, shall be sentenced to a  
12 minimum term of imprisonment of 8 years.

13  
14 Notwithstanding s. 948.01, adjudication of guilt or imposition  
15 of sentence may not be suspended, deferred, or withheld, and  
16 the defendant is ineligible for statutory gain-time under s.  
17 944.275 or any form of discretionary early release, other than  
18 pardon, executive clemency, or conditional medical release  
19 under s. 947.149, prior to serving the minimum sentence.

20 Section 2. Section 784.081, Florida Statutes, is  
21 amended to read:

22 784.081 Assault or battery on specified officials or  
23 employees; reclassification of offenses.--Whenever a person is  
24 charged with committing an assault or aggravated assault or a  
25 battery or aggravated battery upon any elected official or  
26 employee of: a school district; a private school; the Florida  
27 School for the Deaf and the Blind; a university developmental  
28 research school; a state university or any other entity of the  
29 state system of public education, as defined in s. 228.041; a  
30 municipal or county parks or recreation department; or an  
31 employee or protective investigator of the Department of

1 Children and Family Services, when the person committing the  
2 offense knows or has reason to know the identity or position  
3 or employment of the victim, the offense for which the person  
4 is charged shall be reclassified as follows:

5 (1) In the case of aggravated battery, from a felony  
6 of the second degree to a felony of the first degree.

7 (2) In the case of aggravated assault, from a felony  
8 of the third degree to a felony of the second degree.

9 (3) In the case of battery, from a misdemeanor of the  
10 first degree to a felony of the third degree.

11 (4) In the case of assault, from a misdemeanor of the  
12 second degree to a misdemeanor of the first degree.

13 Section 3. This act shall take effect October 1, 2001.  
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16 SENATE SUMMARY

17 Provides enhanced sanctions for an assault, battery,  
18 aggravated assault, or aggravated battery that is  
19 committed against a security officer who is licensed by  
20 the Department of State or against an investigator  
21 employed by the Bureau of Regulation and Enforcement of  
22 the Department of State. Requires that a person convicted  
23 of violating the act be sentenced to certain minimum  
24 terms of imprisonment. Provides additional minimum terms  
25 of imprisonment if a person convicted under the act  
26 possessed a firearm or other destructive device while  
27 committing the offense. Prohibits the court from  
28 suspending or withholding adjudication of guilt or  
29 imposition of sentence. Provides for the reclassification  
30 of offenses when an assault or battery is committed  
31 against an employee of a municipal or county parks or  
recreation department. (See bill for details.)