

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1486

SPONSOR: Criminal Justice Committee and Senators Wise, Smith and others

SUBJECT: Assault or Battery on Specified Officials

DATE: February 19, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Favorable/CS
2.	_____	_____	APJ	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 1486 amends s. 784.081, F.S., which reclassifies the felony or misdemeanor degree (as applicable) of aggravated assault, aggravated battery, assault, and battery if the victim is one of the officials specified in the statute. The amendment would add to the list of specified officials: the Governor; the Lieutenant Governor; an elected Cabinet officer; a member of the Legislature; the mayor or chief head of a municipality; a member of a city council or city commission; a member of a county commission; a public defender; an elected constitutional officer; or an interscholastic sports official as defined in s. 440.02(14)(d)11, F.S.

This CS substantially amends s. 784.081, F.S.

II. Present Situation:

Section 784.081, F.S., provides that whenever a person is charged with committing an assault or aggravated assault or a battery or aggravated battery upon any elected official or employee of: a school district; a private school; the Florida School for the Deaf and the Blind; a university developmental research school; a state university or any other entity of the state system of public education, as defined in s. 228.041, F.S., an employee or protective investigator of the Department of Children and Family Services; or an employee of a lead community-based provider and its direct service contract providers, when the person committing the offense knows or has reason to know the identity or position or employment of the victim, the offense for which the person is charged shall be reclassified as follows:

In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.

In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

Section 784.011, F.S., provides that an assault is a misdemeanor of the second degree. An “assault” is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act that creates a well-founded fear in such other person that such violence is imminent.

Section 784.021, F.S., provides that an aggravated assault is a felony of the third degree. An “aggravated assault” is an assault with a deadly weapon without intent to kill or with an intent to commit a felony.

Section 784.03, F.S., provides that a battery is a misdemeanor of the first degree. However, a person who has one prior conviction for battery, aggravated battery, or felony battery and who commits any second or subsequent battery commits a felony of the third degree. An offense of battery occurs when a person actually and intentionally touches or strikes another person against the will of the other person or intentionally causes bodily harm to another person.

Section 784.045, F.S., provides that aggravated battery is a felony of the second degree. A person commits aggravated battery when that person, in committing battery: intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or uses a deadly weapon. A person also commits aggravated battery when the victim of the battery was pregnant at the time of the offense and the person committing the battery knew or should have known that the victim was pregnant.

III. Effect of Proposed Changes:

This CS amends s. 784.081, F.S., which reclassifies the felony or misdemeanor degree (as applicable) of aggravated assault, aggravated battery, assault, and battery if the victim is one of the officials specified in the statute. The amendment would add to the list of specified officials: the Governor; the Lieutenant Governor; an elected Cabinet officer; a member of the Legislature; the mayor or chief head of a municipality; a member of a city council or city commission; a member of a county commission; a public defender; an elected constitutional officer; or an interscholastic sports official as defined in s. 440.02(14)(d)11, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference estimates that SB 1486 will have an insignificant prison bed impact. An analysis of the CS has not been completed.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Model legislation proposed by the National Association of Sports Officials (NASO) would provide for a \$10,000 fine and/or imprisonment for up to 3 years for physically assaulting a sports official officiating an athletic contest.

According to NASO, the following states punish either assault or battery, or both: Arkansas; California; Delaware; Georgia; Kentucky; Louisiana; Minnesota; Montana; New Jersey; New Mexico; North Carolina; Oklahoma; Oregon, Pennsylvania; and West Virginia.

VIII. Amendments:

None.