

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.)

Prepared By: Justice Appropriations Committee

BILL: CS/CS/SB 212

INTRODUCER: Justice Appropriations Committee, Criminal Justice Committee, Senators Baker and Bennett

SUBJECT: Assault/Battery on Security Officers

DATE: April 5, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Fav/CS
2.	Sadberry	Sadberry	JA	Fav/CS
3.				
4.				
5.				
6.				

I. Summary:

The bill would add licensed security officers and nonsworn law enforcement employees who are wearing an identifiable uniform to the list that provides enhanced criminal penalties for assaulting or battering certain enumerated persons under s. 784.087, F.S. (Currently this section reclassifies the felony or misdemeanor degree of assault and battery offenses committed against a law enforcement officer, firefighter, and other specified persons.) This will have the effect of increasing the maximum sentence that can be imposed for an assault or battery offense committed against a licensed security officer in the same manner as if the offense were committed against a law enforcement officer or firefighter.

This bill would substantially amend section 784.07, Florida Statutes.

II. Present Situation:

Security officers are licensed and regulated by the Department of Agriculture and Consumer Services under ch. 493, F.S. The term "security officer" is statutorily defined as follows:

Any individual who, for consideration, advertises as providing or performs bodyguard services or otherwise guards persons or property; attempts to prevent theft or unlawful taking of goods, wares, and merchandise; or attempts to prevent the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, choses in action, notes, or other documents, papers, and articles of value or procurement of the return

thereof. The term also includes armored car personnel and those personnel engaged in the transportation of prisoners.¹

A security officer must have what is known as a Class D license issued by the department.² An applicant for a Class D security officer license must have 40 hours of training at a licensed school or training facility.³ According to the department, as of October 1, 2005, there were 102,083 people statewide with a Class D license.

Currently, s. 784.07, F.S., provides that when a person is charged with knowingly committing assault⁴, aggravated assault⁵, battery⁶, or aggravated battery⁷ against a law enforcement officer,⁸ firefighter,⁹ emergency medical care provider,¹⁰ traffic accident investigation officer, traffic infraction enforcement officer, parking enforcement specialist,¹¹ or security officer employed by the board of trustees of a community college while the officer, firefighter, or emergency medical care provider is engaged in the lawful performance of his or her duties, the assault or battery offense is reclassified as follows:

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

¹ s. 493.6101(19), F.S.

² s. 493.6301(5), F.S.

³ s. 493.6303(4), F.S.

⁴ 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 which creates a well-founded fear in such other person that such violence is imminent. s. 784.011, F.S.

⁵ An aggravated assault is an assault with a deadly weapon without intent to kill or with an intent to commit a felony. s. 784.021, F.S.

⁶ A battery occurs when a person actually and intentionally touches or strikes another person against the will of the other or intentionally causes bodily harm to another person. s. 784.03, F.S.

⁷ An aggravated battery occurs when a person in committing battery intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or uses a deadly weapon. Aggravated battery also occurs if the victim of the battery was pregnant at the time of the offense and the offender knew or should have known that the victim was pregnant. s. 784.045, F.S.

⁸ "Law enforcement officer" includes a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, F.S., and any county probation officer; employee or agent of the Department of Corrections who supervises or provides services to inmates; officer of the Parole Commission; and law enforcement personnel of the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, or the Department of Law Enforcement. s. 784.07(1)(a), F.S.

⁹ "Firefighter" means any person employed by any public employer of this state whose duty it is to extinguish fires; to protect life or property; or to enforce municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires. s. 784.07(1)(b), F.S.

¹⁰ "Emergency medical care provider" means an ambulance driver, emergency medical technician, paramedic, registered nurse, physician as defined in s. 401.23, F.S., medical director as defined in s. 401.23, F.S., or any person authorized by an emergency medical service licensed under ch. 401, F.S., who is engaged in the performance of his or her duties. The term "emergency medical care provider" also includes physicians, employees, agents, or volunteers of hospitals as defined in ch. 395, F.S., who are employed, under contract, or otherwise authorized by a hospital to perform duties directly associated with the care and treatment rendered by the hospital's emergency department or the security thereof. s. 784.07(1)(c), F.S.

¹¹ s. 316.640, F.S.

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

Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for an offense. The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony. The maximum sentence for a second degree misdemeanor is sixty days incarceration; for a first degree misdemeanor, it is one year incarceration; for a third degree felony, it is five years imprisonment; for a second degree felony, it is fifteen years imprisonment; and for a first degree felony, it is thirty years imprisonment.¹²

III. Effect of Proposed Changes:

The bill would add licensed security officers who are wearing an identifiable uniform to the list that provides enhanced criminal penalties for assaulting or battering certain enumerated persons under s. 784.087, F.S. (The uniform would be required to have at least one visible patch or emblem that identifies the employing agency and the employee as a licensed security officer.) In addition, would add nonsworn law enforcement employees who are certified as agency inspectors, blood alcohol analysts, or breath test operators. Also includes while the employee is in uniform and engaged in processing, testing, evaluating, analyzing, or transporting individuals who have been detained or under arrest for DUI. Therefore, an assault or battery offense committed against a security officer would be reclassified one degree higher than it is currently classified (see Present Situation). This would have the effect of increasing the maximum sentence that could be imposed for an assault or battery offense committed against a licensed security officer in the same manner as if the offense were committed against a law enforcement officer or firefighter.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹² s. 775.082, F.S.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Criminal Justice Impact Conference, the fiscal impact of this bill is insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

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