

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 85

Assault or Battery on Security Officers

**SPONSOR(S):** Taylor

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 212

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	8 Y, 0 N	Kramer	Kramer
2) Justice Appropriations Committee			
3) Justice Council			
4)			
5)			

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### SUMMARY ANALYSIS

Currently, section 784.087, F.S., reclassifies the felony or misdemeanor degree of assault and battery offenses committed against a law enforcement officer, firefighter or other specified person. The bill adds licensed security officers to the list of specified people. This will have the effect of increasing the maximum sentence that can be imposed for an assault or battery offense committed against a security officer in the same manner as if the offense were committed against a law enforcement officer or firefighter.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility: HB 85 will have the effect of increasing the maximum sentence which may be imposed for an assault or battery offense committed against a licensed security officer.

#### B. EFFECT OF PROPOSED CHANGES:

Security officers are licensed and regulated by the Department of Agriculture and Consumer Services under chapter 493. 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.<sup>1</sup>

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

Currently, section 784.07, F.S., provides that when a person is charged with knowingly committing assault<sup>4</sup>, aggravated assault<sup>5</sup>, battery<sup>6</sup> or aggravated battery<sup>7</sup> against a law enforcement officer,<sup>8</sup> firefighter,<sup>9</sup> emergency medical care provider,<sup>10</sup> traffic accident investigation officer, traffic infraction

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<sup>1</sup> s. 493.6101(19), F.S.

<sup>2</sup> s. 493.6301(5), F.S.

<sup>3</sup> s. 493.6303(4), F.S.

<sup>4</sup> 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. § 784.011, F.S.

<sup>5</sup> An aggravated assault is an assault with a deadly weapon without intent to kill or with an intent to commit a felony. § 784.021, F.S.

<sup>6</sup> 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. § 784.03, F.S.

<sup>7</sup> 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. § 784.045, F.S.

<sup>8</sup> "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 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.

<sup>9</sup> "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.

<sup>10</sup> "Emergency medical care provider" means an ambulance driver, emergency medical technician, paramedic, registered nurse, physician as defined in s. 401.23, medical director as defined in s. 401.23, or any person authorized by an emergency medical service licensed under chapter 401 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

enforcement officer, parking enforcement specialist<sup>11</sup> 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.
- 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 is one year of incarceration; for a third degree felony is five years imprisonment; for a second degree felony is fifteen years imprisonment and for a first degree felony is thirty years imprisonment.<sup>12</sup>

HB 85 adds licensed security officers to the specified officers listed above. Therefore, an assault or battery offense committed against a security officer will be reclassified as discussed above. This will have the effect of increasing the maximum sentence that can be imposed for an assault or battery offense committed against a security officer in the same manner as if the offense were committed against a law enforcement officer or firefighter.

#### C. SECTION DIRECTORY:

Section 1. Amends s. 784.07, F.S. to provide for reclassification of assault or battery on a licensed security officer.

Section 2. Provides July 1, 2006 effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

The Criminal Justice Impact Conference has not met to consider the prison bed impact of this bill on the Department of Corrections. The bill reclassifies the offenses of battery, assault, aggravated battery and aggravated assault committed against a licensed security officer. As a result, the offenses will have a higher statutory maximum sentence. However, the offenses of aggravated battery and aggravated assault on a specified official are ranked in the same level in the offense

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chapter 395, 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.

<sup>11</sup> s. 316.640, F.S.

<sup>12</sup> s. 775.082, F.S.

severity ranking chart of the Criminal Punishment Code as the corresponding offenses committed against a victim who is not a member of the protected class. Therefore, the bill will not increase the minimum sentence for these aggravated offenses.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**