

A bill to be entitled

An act relating to offenses against officers; amending s. 776.051, F.S.; providing that a person is not justified in resisting with violence a law enforcement officer who is engaged in the execution of a legal duty, regardless of a specified later finding by a court; providing that a person is not justified in using force if a law enforcement officer acts in good faith and is known or appears to be a law enforcement officer; amending s. 784.07, F.S.; providing for reclassification of certain offenses against certain officers who are engaged in the performance of duties; amending s. 843.01, F.S.; providing criminal penalties for resisting with violence an officer who is executing a legal duty; amending s. 843.02, F.S.; providing criminal penalties for resisting without violence an officer who is executing a legal duty; providing an effective date.

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

Section 1. Section 776.051, Florida Statutes, is amended to read:

776.051 Use of force in resisting or making an arrest or the execution of a legal duty; prohibition.--

(1) A person is not justified in the use of force to resist an arrest by a law enforcement officer or to resist a law enforcement officer who is engaged in the execution of a legal duty, regardless of whether a court later finds that the action

29 of the law enforcement officer was unlawful, if the law  
 30 enforcement officer was acting in good faith and he or she ~~who~~  
 31 is known, or reasonably appears, to be a law enforcement  
 32 officer.

33 (2) A law enforcement officer, or any person whom the  
 34 officer has summoned or directed to assist him or her, is not  
 35 justified in the use of force if the arrest or execution of a  
 36 legal duty is unlawful and known by him or her to be unlawful.

37 Section 2. Subsection (2) of section 784.07, Florida  
 38 Statutes, is amended to read:

39 784.07 Assault or battery of law enforcement officers,  
 40 firefighters, emergency medical care providers, public transit  
 41 employees or agents, or other specified officers;  
 42 reclassification of offenses; minimum sentences.--

43 (2) Whenever any person is charged with knowingly  
 44 committing an assault or battery upon a law enforcement officer,  
 45 a firefighter, an emergency medical care provider, a traffic  
 46 accident investigation officer as described in s. 316.640, a  
 47 nonsworn law enforcement agency employee who is certified as an  
 48 agency inspector, blood alcohol analyst, or a breath test  
 49 operator while such employee is in uniform and engaged in  
 50 processing, testing, evaluating, analyzing, or transporting a  
 51 person who is detained or under arrest for DUI, a traffic  
 52 infraction enforcement officer as described in s. 316.640, a  
 53 parking enforcement specialist as defined in s. 316.640, a  
 54 person licensed as a security officer as defined in s. 493.6101  
 55 and wearing a uniform that bears at least one patch or emblem  
 56 that is visible at all times that clearly identifies the

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57 | employing agency and that clearly identifies the person as a  
58 | licensed security officer, or a security officer employed by the  
59 | board of trustees of a community college, while the officer,  
60 | firefighter, emergency medical care provider, intake officer,  
61 | traffic accident investigation officer, traffic infraction  
62 | enforcement officer, inspector, analyst, operator, parking  
63 | enforcement specialist, public transit employee or agent, or  
64 | security officer is engaged in the ~~lawful~~ performance of his or  
65 | her duties, the offense for which the person is charged shall be  
66 | reclassified as follows:

67 |       (a) In the case of assault, from a misdemeanor of the  
68 | second degree to a misdemeanor of the first degree.

69 |       (b) In the case of battery, from a misdemeanor of the  
70 | first degree to a felony of the third degree.

71 |       (c) In the case of aggravated assault, from a felony of  
72 | the third degree to a felony of the second degree.

73 | Notwithstanding any other provision of law, any person convicted  
74 | of aggravated assault upon a law enforcement officer shall be  
75 | sentenced to a minimum term of imprisonment of 3 years.

76 |       (d) In the case of aggravated battery, from a felony of  
77 | the second degree to a felony of the first degree.

78 | Notwithstanding any other provision of law, any person convicted  
79 | of aggravated battery of a law enforcement officer shall be  
80 | sentenced to a minimum term of imprisonment of 5 years.

81 |       Section 3. Section 843.01, Florida Statutes, is amended to  
82 | read:

83 |       843.01 Resisting officer with violence to his or her  
84 | person.--Whoever knowingly and willfully resists, obstructs, or

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85 opposes any officer as defined in s. 943.10(1), (2), (3), (6),  
 86 (7), (8), or (9); member of the Parole Commission or any  
 87 administrative aide or supervisor employed by the commission;  
 88 parole and probation supervisor; county probation officer;  
 89 personnel or representative of the Department of Law  
 90 Enforcement; or other person legally authorized to execute  
 91 process in the execution of legal process or in the ~~lawful~~  
 92 execution of any legal duty, by offering or doing violence to  
 93 the person of such officer or legally authorized person, commits  
 94 ~~is guilty of~~ a felony of the third degree, punishable as  
 95 provided in s. 775.082, s. 775.083, or s. 775.084.

96 Section 4. Section 843.02, Florida Statutes, is amended to  
 97 read:

98 843.02 Resisting officer without violence to his or her  
 99 person.--Whoever shall resist, obstruct, or oppose any officer  
 100 as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9);  
 101 member of the Parole Commission or any administrative aide or  
 102 supervisor employed by the commission; county probation officer;  
 103 parole and probation supervisor; personnel or representative of  
 104 the Department of Law Enforcement; or other person legally  
 105 authorized to execute process in the execution of legal process  
 106 or in the ~~lawful~~ execution of any legal duty, without offering  
 107 or doing violence to the person of the officer, commits ~~shall be~~  
 108 ~~guilty of~~ a misdemeanor of the first degree, punishable as  
 109 provided in s. 775.082 or s. 775.083.

110 Section 5. This act shall take effect July 1, 2008.