

By Senator Crist

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1 A bill to be entitled

2 An act relating to offenses against officers; amending s.
3 776.051, F.S.; providing that a person is not justified in
4 resisting with violence a law enforcement officer who is
5 engaged in the execution of a legal duty, regardless of a
6 specified later finding by a court; providing that a
7 person is not justified in using force if a law
8 enforcement officer acts in good faith and is known or
9 appears to be a law enforcement officer; amending s.
10 784.07, F.S.; providing for reclassification of certain
11 offenses against certain officers who are engaged in the
12 performance of duties; amending s. 843.01, F.S.; providing
13 criminal penalties for resisting with violence an officer
14 who is executing a legal duty; amending s. 843.02, F.S.;
15 providing criminal penalties for resisting without
16 violence an officer who is executing a legal duty;
17 providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Section 776.051, Florida Statutes, is amended to
22 read:

23 776.051 Use of force in resisting arrest or making an
24 arrest or in the execution of a legal duty; prohibition.--

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

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

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

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

38 784.07 Assault or battery of law enforcement officers,
39 firefighters, emergency medical care providers, public transit
40 employees or agents, or other specified officers;
41 reclassification of offenses; minimum sentences.--

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

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59 | medical care provider, intake officer, traffic accident
60 | investigation officer, traffic infraction enforcement officer,
61 | inspector, analyst, operator, parking enforcement specialist,
62 | public transit employee or agent, or security officer is engaged
63 | in the ~~lawful~~ performance of his or her duties, the offense for
64 | which the person is charged shall be reclassified as follows:

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

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

69 | (c) In the case of aggravated assault, from a felony of the
70 | third degree to a felony of the second degree. Notwithstanding
71 | any other provision of law, any person convicted of aggravated
72 | assault upon a law enforcement officer shall be sentenced to a
73 | minimum term of imprisonment of 3 years.

74 | (d) In the case of aggravated battery, from a felony of the
75 | second degree to a felony of the first degree. Notwithstanding
76 | any other provision of law, any person convicted of aggravated
77 | battery of a law enforcement officer shall be sentenced to a
78 | minimum term of imprisonment of 5 years.

79 | Section 3. Section 843.01, Florida Statutes, is amended to
80 | read:

81 | 843.01 Resisting officer with violence to his or her
82 | person.--Whoever knowingly and willfully resists, obstructs, or
83 | opposes any officer as defined in s. 943.10(1), (2), (3), (6),
84 | (7), (8), or (9); member of the Parole Commission or any
85 | administrative aide or supervisor employed by the commission;
86 | parole and probation supervisor; county probation officer;
87 | personnel or representative of the Department of Law Enforcement;

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88 or other person legally authorized to execute process in the
89 execution of legal process or in the ~~lawful~~ execution of any
90 legal duty, by offering or doing violence to the person of such
91 officer or legally authorized person, commits ~~is guilty of~~ a
92 felony of the third degree, punishable as provided in s. 775.082,
93 s. 775.083, or s. 775.084.

94 Section 4. Section 843.02, Florida Statutes, is amended to
95 read:

96 843.02 Resisting officer without violence to his or her
97 person.--Whoever shall resist, obstruct, or oppose any officer as
98 defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); member
99 of the Parole Commission or ~~any~~ administrative aide or supervisor
100 employed by the commission; county probation officer; parole and
101 probation supervisor; personnel or representative of the
102 Department of Law Enforcement; or other person legally authorized
103 to execute process in the execution of legal process or in the
104 ~~lawful~~ execution of any legal duty, without offering or doing
105 violence to the person of the officer, commits ~~shall be guilty of~~
106 a misdemeanor of the first degree, punishable as provided in s.
107 775.082 or s. 775.083.

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