

By Senator Justice

16-01080-10

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1 A bill to be entitled

2 An act relating to assault and battery; creating s.
3 784.071, F.S.; providing for the upgrading of the
4 degree of specified assault and battery offenses
5 committed against specified persons based on their
6 position or employment; providing for sentencing;
7 providing for additional imprisonment in certain
8 circumstances; prohibiting gain-time and discretionary
9 early release for offenders; providing an exception;
10 providing an effective date.

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

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14 Section 1. Section 784.071, Florida Statutes, is created to
15 read:

16 784.071 Assault or battery on social workers and other
17 specified persons.—

18 (1)(a) Whenever a person is charged with committing an
19 assault or aggravated assault or a battery or aggravated battery
20 upon a person who is licensed under chapter 490 or chapter 491
21 or is a social worker as described in s. 491.016(2) and when the
22 person committing the offense knows or has reason to know the
23 identity or position or employment of the victim and at the time
24 of the incident the victim is in the course of performing his or
25 her duties in that position or employment or the incident is
26 related to that position or employment, the offense for which
27 the person is charged shall be reclassified as follows:

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

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

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

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

36 (b) Notwithstanding any other provision of law, any person
37 convicted of aggravated assault or aggravated battery of a
38 person defined in paragraph (a) shall be fined not more than
39 \$10,000, shall be ordered by the sentencing judge to make
40 restitution to the victim of such offense and perform up to 500
41 hours of community service work, and, except as provided in
42 subsection (2), shall be sentenced to a minimum term of
43 imprisonment of 5 years. Restitution and community service work
44 shall be in addition to any fine or sentence which may be
45 imposed and shall not be in lieu thereof.

46 (2) Any person who is convicted of a battery under
47 subparagraph (1)(a)2. and, during the commission of the offense,
48 possessed:

49 (a) A "firearm" or "destructive device" as those terms are
50 defined in s. 790.001, shall be sentenced to a minimum term of
51 imprisonment of 3 years in addition to that provided in
52 subsection (1).

53 (b) A semiautomatic firearm and its high-capacity
54 detachable box magazine, as defined in s. 775.087(3), or a
55 machine gun as defined in s. 790.001, shall be sentenced to a
56 minimum term of imprisonment of 8 years in addition to that
57 provided in subsection (1).

58 (3) Notwithstanding s. 948.01, adjudication of guilt or

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59 imposition of sentence shall not be suspended, deferred, or
60 withheld, and the defendant is not eligible for statutory gain-
61 time under s. 944.275 or any form of discretionary early
62 release, other than pardon or executive clemency, or conditional
63 medical release under s. 947.149, prior to serving the minimum
64 sentence.

65 Section 2. This act shall take effect October 1, 2010.