

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 degree  
 4       of specified assault and battery offenses committed  
 5       against specified persons based on their position or  
 6       employment; providing for sentencing; providing for  
 7       additional imprisonment in certain circumstances;  
 8       prohibiting gain-time and discretionary early release for  
 9       offenders; providing an exception; providing an effective  
 10      date.

11  
 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  
 15 to 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:

HB 567

2010

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

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

HB 567

2010

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  
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.