

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on Criminal and Civil Justice Appropriations

**BILL:** CS/SB 734

**INTRODUCER:** Communications, Energy, and Public Utilities and Senator Wise

**SUBJECT:** Assault or Battery on Utility Workers

**DATE:** April 9, 2011                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Carter	CU	<b>Fav/CS</b>
2.	Erickson	Cannon	CJ	<b>Favorable</b>
3.	Sadberry	Sadberry	BJA	<b>Pre-meeting</b>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

Currently, s. 784.07, F.S., provides for the reclassification of the misdemeanor or felony degree of specified assault and battery offenses when those offenses are knowingly committed against law enforcement officers, firefighters, and other specified persons engaged in the lawful performance of their duties. The effect of this reclassification is that the maximum penalty increases. The bill adds utility workers, a term defined in the bill, to the list of specified persons. Therefore, the felony or misdemeanor degree of certain assault and battery offenses would be reclassified if committed against a utility worker engaged in the lawful performance of his or her duties in the same manner as if those offenses were committed against a law enforcement officer or firefighter engaged in the lawful performance of his or her duties.

The bill takes effect July 1, 2011.

This bill substantially amends section 784.07 of the Florida Statutes.

## II. Present Situation:

Section 784.07, F.S., enhances the penalties for assault or battery on the following types of employees or persons:

- A law enforcement officer;
- A firefighter;
- An emergency medical care provider;
- A traffic accident investigation officer;
- A nonsworn law enforcement agency employee who is certified as an agency inspector;
- A blood alcohol analyst or a breath test operator while such employee is in uniform and engaged in processing, testing, evaluating, analyzing, or transporting a person who is detained or under arrest for DUI;
- A law enforcement explorer;
- A traffic infraction enforcement officer;
- A parking enforcement specialist;
- A public transit employee or agent;
- A person licensed as a security officer and wearing a uniform that bears at least one patch or emblem that is visible at all times that clearly identifies the employing agency and that clearly identifies the person as a licensed security officer; and
- A security officer employed by the board of trustees of a community college.

Section 784.07, F.S., applies whenever any person is charged with knowingly committing an assault or battery upon one of these persons while that person is engaged in the lawful performance of his or her duties. The reclassification of degree of the offense depends on the assault or battery offense charged:

- 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; and
- 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 60 days in a county jail; for a first degree misdemeanor, it is 1 year in a county jail; for a third degree felony, it is 5-years state imprisonment; for a second degree felony, it is 15-years state imprisonment; and for a first degree felony, it is generally 30-years state imprisonment.<sup>1</sup> Fines may also be imposed, and these fines escalate based on the degree of the offense.<sup>2</sup> The offense severity ranking level of applicable reclassified felony offenses is as

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<sup>1</sup> s. 775.082, F.S.

<sup>2</sup> s. 775.083, F.S.

follows: reclassified battery: Level 4; reclassified aggravated assault: Level 6; and reclassified aggravated battery: Level 7.<sup>3</sup>

Additionally, s. 784.07, F.S., provides that, when a person is found guilty under the statute, adjudication of guilt or imposition of sentence cannot be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release prior to serving the minimum sentence.

### III. Effect of Proposed Changes:

Currently, s. 784.07, F.S., provides for the reclassification of the misdemeanor or felony degree of specified assault and battery offenses when those offenses are knowingly committed against law enforcement officers, firefighters, and other specified persons engaged in the lawful performance of their duties. The effect of this reclassification is that the maximum penalty increases.

Section 1 of the bill amends s. 784.07, F.S., to add utility workers to the list of specified persons. Therefore, the felony or misdemeanor degree of certain assault and battery offenses would be reclassified if committed against a utility worker engaged in the lawful performance of his or her duties in the same manner as if those offenses were committed against a law enforcement officer or firefighter engaged in the lawful performance of his or her duties.

The reclassification occurs 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; and
- In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

The bill defines the term “utility worker” to mean “any person employed by an entity that owns, operates, leases, or controls any plant, property, or facility for the generation, transmission, manufacture, production, supply, distribution, sale, storage, conveyance, delivery, or furnishing to or for the public of electricity, natural or manufactured gas, water, steam, sewage, or telephone service, including two or more utilities rendering joint service.”

Section 2 makes conforming changes to s. 921.0022, F.S., the offense severity ranking chart of the Criminal Punishment Code.

Section 3 provides that the bill takes effect July 1, 2011.

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<sup>3</sup> s. 921.0022(3)(d), (f), and (g), F.S. Sentence points accrue based upon the ranking of a non-capital felony offense with higher-level offenses accruing more sentence points than lower-ranking offenses. These points along with points accrued for additional and prior offenses and other factors are entered into a statutorily-derived mathematical calculation to determine the lowest permissible sentence.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates that the bill will have an insignificant prison bed impact (low volume).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

## A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Communications, Energy, and Public Utilities on March 7, 2011:**

Makes a technical change to the definition to include all types of communications utilities.

## B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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