

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative Baez offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 29-364 and insert:

7 firefighters, emergency medical care providers, health care
 8 providers, public transit employees or agents, or other
 9 specified officers; reclassification of offenses; minimum
 10 sentences.-

11 (1) As used in this section, the term:

12 (c) "Health care provider" means a physician, a registered
 13 nurse, an employee, an agent, or a volunteer of a hospital, as
 14 defined in s. 395.002, who is employed by, under contract with,
 15 or otherwise authorized by such hospital to perform duties

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16 directly associated with the care and treatment rendered by the
17 hospital.

18 (2) Whenever any person is charged with knowingly
19 committing an assault or battery upon a law enforcement officer,
20 a firefighter, an emergency medical care provider, a health care
21 provider, a railroad special officer, a traffic accident
22 investigation officer as described in s. 316.640, a nonsworn law
23 enforcement agency employee who is certified as an agency
24 inspector, a blood alcohol analyst, or a breath test operator
25 while such employee is in uniform and engaged in processing,
26 testing, evaluating, analyzing, or transporting a person who is
27 detained or under arrest for DUI, a law enforcement explorer, a
28 traffic infraction enforcement officer as described in s.
29 316.640, a parking enforcement specialist as defined in s.
30 316.640, a person licensed as a security officer as defined in
31 s. 493.6101 and wearing a uniform that bears at least one patch
32 or emblem that is visible at all times that clearly identifies
33 the employing agency and that clearly identifies the person as a
34 licensed security officer, or a security officer employed by the
35 board of trustees of a community college, while the officer,
36 firefighter, emergency medical care provider, health care
37 provider, railroad special officer, traffic accident
38 investigation officer, traffic infraction enforcement officer,
39 inspector, analyst, operator, law enforcement explorer, parking
40 enforcement specialist, public transit employee or agent, or

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41 security officer is engaged in the lawful performance of his or
42 her duties, the offense for which the person is charged shall be
43 reclassified as follows:

44 (a) In the case of assault, from a misdemeanor of the
45 second degree to a misdemeanor of the first degree.

46 (b) In the case of battery, from a misdemeanor of the
47 first degree to a felony of the third degree.

48 (c) In the case of aggravated assault, from a felony of
49 the third degree to a felony of the second degree.

50 Notwithstanding any other provision of law, any person convicted
51 of aggravated assault upon a law enforcement officer shall be
52 sentenced to a minimum term of imprisonment of 3 years.

53 (d) In the case of aggravated battery, from a felony of
54 the second degree to a felony of the first degree.

55 Notwithstanding any other provision of law, any person convicted
56 of aggravated battery of a law enforcement officer shall be
57 sentenced to a minimum term of imprisonment of 5 years.

58 (3) Any person who is convicted of a battery under
59 paragraph (2)(b) and, during the commission of the offense, such
60 person possessed:

61 (a) A "firearm" or "destructive device" as those terms are
62 defined in s. 790.001, shall be sentenced to a minimum term of
63 imprisonment of 3 years.

64 (b) A semiautomatic firearm and its high-capacity
65 detachable box magazine, as defined in s. 775.087(3), or a

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66 machine gun as defined in s. 790.001, shall be sentenced to a
67 minimum term of imprisonment of 8 years.

68

69 Notwithstanding s. 948.01, adjudication of guilt or imposition
70 of sentence shall not be suspended, deferred, or withheld, and
71 the defendant is not eligible for statutory gain-time under s.
72 944.275 or any form of discretionary early release, other than
73 pardon or executive clemency, or conditional medical release
74 under s. 947.149, prior to serving the minimum sentence.

75 Section 2. Subsection (15) of section 901.15, Florida
76 Statutes, is amended to read:

77 901.15 When arrest by officer without warrant is lawful.—A
78 law enforcement officer may arrest a person without a warrant
79 when:

80 (15) There is probable cause to believe that the person
81 has committed assault upon a law enforcement officer, a
82 firefighter, an emergency medical care provider, a health care
83 provider, public transit employees or agents, or other specified
84 officers as set forth in s. 784.07 or has committed assault or
85 battery upon any employee of a receiving facility as defined in
86 s. 394.455 who is engaged in the lawful performance of his or
87 her duties.

88 Section 3. Paragraph (a) of subsection (3) of section
89 985.644, Florida Statutes, is amended to read:

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90 985.644 Departmental contracting powers; personnel
91 standards and investigation.—

92 (3) (a) All employees of the department and all personnel
93 of contract providers for any program for children, including
94 all owners, operators, employees, persons who have access to
95 confidential juvenile records, and volunteers, must complete:

96 1. A level 2 employment screening pursuant to chapter 435
97 before employment. The security background investigation
98 conducted under this section must ensure that, in addition to
99 the disqualifying offenses listed in s. 435.04, no person
100 subject to the background screening provisions of this section
101 has an arrest awaiting final disposition for, been found guilty
102 of, regardless of adjudication, or entered a plea of nolo
103 contendere or guilty to, or been adjudicated delinquent and the
104 record has not been sealed or expunged for, any offense
105 prohibited under the following provisions of state law or
106 similar laws of another jurisdiction:

107 a. Section 784.07, relating to assault or battery of law
108 enforcement officers, firefighters, emergency medical care
109 providers, health care providers, public transit employees or
110 agents, or other specified officers.

111 b. Section 817.568, relating to criminal use of personal
112 identification information.

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113 2. A national criminal records check by the Federal Bureau
114 of Investigation every 5 years following the date of the
115 person's employment.

116 Section 4. For the purpose of incorporating the amendment
117 made by this act to section 784.07, Florida Statutes, in
118 references thereto, paragraphs (d), (e), (f), and (g) of
119 subsection (1) of section 775.0877, Florida Statutes, are
120 reenacted to read:

121 775.0877 Criminal transmission of HIV; procedures;
122 penalties.—

123 (1) In any case in which a person has been convicted of or
124 has pled nolo contendere or guilty to, regardless of whether
125 adjudication is withheld, any of the following offenses, or the
126 attempt thereof, which offense or attempted offense involves the
127 transmission of body fluids from one person to another:

128 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),
129 relating to assault;

130 (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),
131 relating to aggravated assault;

132 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),
133 relating to battery;

134 (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),
135 relating to aggravated battery;

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137 the court shall order the offender to undergo HIV testing, to be
138 performed under the direction of the Department of Health in
139 accordance with s. 381.004, unless the offender has undergone
140 HIV testing voluntarily or pursuant to procedures established in
141 s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or
142 rule providing for HIV testing of criminal offenders or inmates,
143 subsequent to her or his arrest for an offense enumerated in
144 paragraphs (a)-(n) for which she or he was convicted or to which
145 she or he pled nolo contendere or guilty. The results of an HIV
146 test performed on an offender pursuant to this subsection are
147 not admissible in any criminal proceeding arising out of the
148 alleged offense.

149 Section 5. For the purpose of incorporating the amendment
150 made by this act to section 784.07, Florida Statutes, in a
151 reference thereto, subsection (1) of section 794.056, Florida
152 Statutes, is reenacted to read:

153 794.056 Rape Crisis Program Trust Fund.—

154 (1) The Rape Crisis Program Trust Fund is created within
155 the Department of Health for the purpose of providing funds for
156 rape crisis centers in this state. Trust fund moneys shall be
157 used exclusively for the purpose of providing services for
158 victims of sexual assault. Funds credited to the trust fund
159 consist of those funds collected as an additional court
160 assessment in each case in which a defendant pleads guilty or
161 nolo contendere to, or is found guilty of, regardless of

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162 adjudication, an offense provided in s. 775.21(6) and (10) (a),
 163 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
 164 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
 165 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
 166 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
 167 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.
 168 796.06; s. 796.07(2) (a)-(d) and (i); s. 800.03; s. 800.04; s.
 169 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
 170 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.
 171 847.0137; s. 847.0145; s. 943.0435(4) (c), (7), (8), (9) (a),
 172 (13), and (14) (c); or s. 985.701(1). Funds credited to the trust
 173 fund also shall include revenues provided by law, moneys
 174 appropriated by the Legislature, and grants from public or
 175 private entities.

176 Section 6. For the purpose of incorporating the amendment
 177 made by this act to section 784.07, Florida Statutes, in a
 178 reference thereto, paragraph (d) of subsection (3) of section
 179 921.0022, Florida Statutes, is reenacted to read:

180 921.0022 Criminal Punishment Code; offense severity
 181 ranking chart.—

182 (3) OFFENSE SEVERITY RANKING CHART

183 (d) LEVEL 4

184

Florida	Felony	Description
Statute	Degree	

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185	316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
186	499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
187	499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
188	517.07(1)	3rd	Failure to register securities.
189	517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
190	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.

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191	784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
192	784.075	3rd	Battery on detention or commitment facility staff.
193	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
194	784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
195	784.081(3)	3rd	Battery on specified official or employee.
196	784.082(3)	3rd	Battery by detained person on visitor or other detainee.
197	784.083(3)	3rd	Battery on code inspector.
198	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or

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materials.

199

787.03(1) 3rd Interference with custody;
wrongly takes minor from
appointed guardian.

200

787.04(2) 3rd Take, entice, or remove child
beyond state limits with
criminal intent pending custody
proceedings.

201

787.04(3) 3rd Carrying child beyond state
lines with criminal intent to
avoid producing child at
custody hearing or delivering
to designated person.

202

787.07 3rd Human smuggling.

203

790.115(1) 3rd Exhibiting firearm or weapon
within 1,000 feet of a school.

204

790.115(2)(b) 3rd Possessing electric weapon or
device, destructive device, or
other weapon on school

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property.

205

790.115 (2) (c) 3rd Possessing firearm on school
property.

206

800.04 (7) (c) 3rd Lewd or lascivious exhibition;
offender less than 18 years.

207

810.02 (4) (a) 3rd Burglary, or attempted
burglary, of an unoccupied
structure; unarmed; no assault
or battery.

208

810.02 (4) (b) 3rd Burglary, or attempted
burglary, of an unoccupied
conveyance; unarmed; no assault
or battery.

209

810.06 3rd Burglary; possession of tools.

210

810.08 (2) (c) 3rd Trespass on property, armed
with firearm or dangerous
weapon.

211

812.014 (2) (c) 3. 3rd Grand theft, 3rd degree \$10,000

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or more but less than \$20,000.

212

812.014
(2) (c) 4.-10.

3rd

Grand theft, 3rd degree, a
will, firearm, motor vehicle,
livestock, etc.

213

812.0195(2)

3rd

Dealing in stolen property by
use of the Internet; property
stolen \$300 or more.

214

817.563(1)

3rd

Sell or deliver substance other
than controlled substance
agreed upon, excluding s.
893.03(5) drugs.

215

817.568(2) (a)

3rd

Fraudulent use of personal
identification information.

216

817.625(2) (a)

3rd

Fraudulent use of scanning
device or reencoder.

217

828.125(1)

2nd

Kill, maim, or cause great
bodily harm or permanent
breeding disability to any
registered horse or cattle.

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218	837.02(1)	3rd	Perjury in official proceedings.
219	837.021(1)	3rd	Make contradictory statements in official proceedings.
220	838.022	3rd	Official misconduct.
221	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
222	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
223	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
224	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.

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225	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
226	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
227	874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
228	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
229	914.14(2)	3rd	Witnesses accepting bribes.
230	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
231	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily

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injury.

232

918.12 3rd Tampering with jurors.

233

934.215 3rd Use of two-way communications
device to facilitate commission
of a crime.

234

235 Section 7. For the purpose of incorporating the amendment
236 made by this act to section 784.07, Florida Statutes, in a
237 reference thereto, section 938.08, Florida Statutes, is
reenacted to read:

238

239 938.08 Additional cost to fund programs in domestic
240 violence.—In addition to any sanction imposed for a violation of
241 s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045, s.
242 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s.
243 784.083, s. 784.085, s. 794.011, or for any offense of domestic
244 violence described in s. 741.28, the court shall impose a
245 surcharge of \$201. Payment of the surcharge shall be a condition
246 of probation, community control, or any other court-ordered
247 supervision. The sum of \$85 of the surcharge shall be deposited
248 into the Domestic Violence Trust Fund established in s. 741.01.
249 The clerk of the court shall retain \$1 of each surcharge that
250 the clerk of the court collects as a service charge of the
251 clerk's office. The remainder of the surcharge shall be provided
to the governing board of the county and must be used only to

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252 defray the costs of incarcerating persons sentenced under s.
253 741.283 and provide additional training to law enforcement
254 personnel in combating domestic violence.

255 Section 8. For the purpose of incorporating the amendment
256 made by this act to section 784.07, Florida Statutes, in a
257 reference thereto, section 938.085, Florida Statutes, is
258 reenacted to read:

259 938.085 Additional cost to fund rape crisis centers.—In
260 addition to any sanction imposed when a person pleads guilty or
261 nolo contendere to, or is found guilty of, regardless of
262 adjudication, a violation of s. 775.21(6) and (10) (a), (b), and
263 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
264 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
265 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
266 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.
267 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.
268 796.07(2) (a)–(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
269 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
270 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
271 847.0145; s. 943.0435(4) (c), (7), (8), (9) (a), (13), and
272 (14) (c); or s. 985.701(1), the court shall impose a surcharge of
273 \$151. Payment of the surcharge shall be a condition of
274 probation, community control, or any other court-ordered
275 supervision. The sum of \$150 of the surcharge shall be deposited
276 into the Rape Crisis Program Trust Fund established within the

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277 Department of Health by chapter 2003-140, Laws of Florida. The
278 clerk of the court shall retain \$1 of each surcharge that the
279 clerk of the court collects as a service charge of the clerk's
280 office.

281

282

T I T L E A M E N D M E N T

283

284 Remove lines 2-18 and insert:

285 An act relating to assault or battery on health care providers;
286 amending s. 784.07, F.S.; defining the term "health care
287 provider"; providing for the reclassification of certain assault
288 and battery offenses committed on health care providers;
289 amending ss. 901.15 and 985.644, F.S.; conforming provisions to
290 changes made by the act; reenacting ss. 775.0877(1)(d), (e),
291 (f), and (g), 794.056(1), 921.0022(3)(d), 938.08, and 938.085,
292 F.S., relating to criminal transmission of HIV, the Rape Crisis
293 Program Trust Fund, the offense severity ranking chart of the
294 Criminal Punishment Code, additional cost to fund programs in
295 domestic violence, and additional cost to fund rape crisis
296 centers, respectively, to incorporate the amendments made by the
297 act; providing an effective