

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1207 Assault or Battery on Healthcare Providers
SPONSOR(S): Criminal Justice Subcommittee; Baez and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1712

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N, As CS	Merlin	White
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Section 784.07(2), F.S., provides that when a person is charged with knowingly committing an assault or battery upon law enforcement officers, firefighters, and other persons while those persons are engaged in the lawful performance of their duties, the offense is to be reclassified 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. Notwithstanding any other provision of law, any person convicted of aggravated assault upon a law enforcement officer shall be sentenced to a minimum term of imprisonment of three years; and
- In the case of aggravated battery, from a felony of the second degree to a felony of the first degree. Notwithstanding any other provision of law, any person convicted of aggravated battery of a law enforcement officer shall be sentenced to a minimum term of imprisonment of five years.

The bill amends s. 784.07, F.S., to create a definition for a health care provider. Under the bill:

- “Health care provider” means a physician, registered nurse, employee, agent, or volunteer of a hospital, as defined in s. 395.002, or a nursing home facility, as defined in s. 400.021, who is employed by, under contract with, or otherwise authorized by such hospital or nursing home facility to perform duties directly associated with the care and treatment rendered by the hospital or nursing home facility.

The bill adds the term “health care provider” to the list of individuals or persons, which would trigger reclassification for assault or battery.

The Criminal Justice Impact Conference (“CJIC”) has not considered the impact of this bill. It is anticipated that the bill will increase the need for state prison beds. The bill may decrease the need for jail beds to the extent that it reclassifies first degree misdemeanors to third degree felonies. The bill may also increase the need for jail beds to the extent that it reclassifies second degree misdemeanors to first degree misdemeanors.

The bill provides an effective date of October 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Reclassification for Committing Assault or Battery on First Responders

Florida law currently provides for certain assault or battery offenses to be increased in severity when committed against persons who are employed as first responders, e.g., law enforcement officers, firefighters, and emergency medical care providers.¹

Section 784.07, F.S., provides that when a person is charged with knowingly committing an assault² or battery³ upon one of a list of specified types of employees or persons while that employee or person is engaged in the lawful performance of his or her duties, the offense is to be reclassified. The list contains the following types of employees or persons:

- A law enforcement officer;⁴
- A firefighter;⁵
- An emergency medical care provider;⁶
- A railroad special officer;⁷
- A traffic accident investigation officer as described in s. 316.640, F.S.;
- 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;⁸
- A traffic infraction enforcement officer as described in s. 316.640, F.S.;
- A parking enforcement specialist as defined in s. 316.640, F.S.;
- A person licensed as a security officer as defined in s. 493.6101, F.S., 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;

¹ s. 784.07, F.S.

² An “assault” is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent. s. 784.011(1), F.S.

³ The offense of “battery” occurs when a person: actually and intentionally touches or strikes another person against the will of the other; or intentionally causes bodily harm to another person. s. 784.03(1)(a), F.S.

⁴ “Law enforcement officer” includes a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, F.S., and any county probation officer; an employee or agent of the Department of Corrections who supervises or provides services to inmates; an officer of the Parole Commission; a federal law enforcement officer as defined in s. 901.1505; F.S., and law enforcement personnel of the Fish and Wildlife Conservation Commission or the Department of Law Enforcement. s. 784.07(1)(c), F.S.

⁵ “Firefighter” means any person employed by any public employer of this state whose duty it is to extinguish fires; to protect life or property; or to enforce municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires. s. 784.07(1)(b), F.S.

⁶ “Emergency medical care provider” means an ambulance driver, emergency medical technician, paramedic, registered nurse, physician as defined in s. 401.23, F.S., medical director as defined in s. 401.23, F.S., or any person authorized by an emergency medical service licensed under chapter 401, F.S., who is engaged in the performance of his or her duties. The term “emergency medical care provider” also includes physicians, employees, agents, or volunteers of hospitals as defined in chapter 395, F.S., who are employed, under contract, or otherwise authorized by a hospital to perform duties directly associated with the care and treatment rendered by the hospital’s emergency department or the security thereof. s. 784.07(1)(a), F.S.

⁷ “Railroad special officer” means a person employed by a Class I, Class II, or Class III railroad and appointed or pending appointment by the Governor pursuant to s. 354.01, F.S. s. 784.07(1)(f), F.S.

⁸ “Law enforcement explorer” means any person who is a current member of a law enforcement agency’s explorer program and who is performing functions other than those required to be performed by sworn law enforcement officers on behalf of a law enforcement agency while under the direct physical supervision of a sworn officer of that agency and wearing a uniform that bears at least one patch that clearly identifies the law enforcement agency that he or she represents. s. 784.07(1)(c), F.S.

- A security officer employed by the board of trustees of a community college; and
- A public transit employee or agent.⁹

Section 784.07(2), F.S., provides that when a person is charged with knowingly committing an assault or battery upon specified employees or persons while that employee or person is engaged in the lawful performance of his or her duties, the offense is to be reclassified 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. Notwithstanding any other provision of law, any person convicted of aggravated assault upon a law enforcement officer shall be sentenced to a minimum term of imprisonment of three years; and
- In the case of aggravated battery, from a felony of the second degree to a felony of the first degree. Notwithstanding any other provision of law, any person convicted of aggravated battery of a law enforcement officer shall be sentenced to a minimum term of imprisonment of 5 years.¹⁰

Section 784.07(3), F.S., provides that a person who is convicted of battery upon one of those listed employees or persons and who during the commission of the offense possessed:

- A “firearm” or “destructive device” as those terms are defined in s. 790.001, F.S., shall be sentenced to a minimum term of imprisonment of 3 years.
- A semiautomatic firearm and its high-capacity detachable box magazine, as defined in s. 775.087(3), F.S., or a machine gun as defined in s. 790.001, F.S., shall be sentenced to a minimum term of imprisonment of 8 years.

Section 784.07(3), F.S., further provides, “[n]otwithstanding s. 948.01, F.S., adjudication of guilt or imposition of sentence cannot be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275, F.S., or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, F.S., prior to serving the minimum sentence.”

Reclassification of an offense has the effect of increasing the maximum sentence and fines that can be imposed for an offense. The maximum sentence or fine 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 of incarceration in a county jail and a \$500 fine; for a first degree misdemeanor, it is one year of incarceration in a county jail and a \$1,000 fine; for a third degree felony, it is five years of imprisonment, and a \$5,000 fine; for a second degree felony, it is 15 years of imprisonment, and a \$10,000 fine; and for a first degree felony, it is thirty years of imprisonment, and a \$10,000 fine.¹¹ The maximum available fines also escalate based on the degree of the offense.¹²

Effect of the Bill

The bill amends s. 784.07, F.S., to create a definition for a health care provider. Under the bill:

- “Health care provider” means a physician, registered nurse, employee, agent, or volunteer of a hospital, as defined in s. 395.002, or a nursing home facility, as defined in s. 400.21, who is

⁹ It is unclear whether a public transit employee or agent is included. Section 784.07(2), F.S., applies if someone is charged with knowingly committing an assault or battery upon an employee or person of a type contained in list 1 while that employee or person, identified in list 2 by using terms different from those in list 1, is engaged in the lawful performance of his or her duties. The term “public transit employee or agent” is not included in list 1, but it is in list 2. “Public transit employees or agents” means “bus operators, train operators, revenue collectors, security personnel, equipment maintenance personnel, or field supervisors, who are employees or agents of a transit agency as described in s. 812.015(1)(l).” s. 784.07(1)(e), F.S.

¹⁰ s. 784.07(2)(a)-(d), F.S.

¹¹ s. 775.082, F.S.

¹² s. 775.083, F.S.

employed by, under contract with, or otherwise authorized by such hospital or nursing home facility to perform duties directly associated with the care and treatment rendered by the hospital or nursing home facility.

The bill adds the term “health care provider” to the list of individuals or persons, which would trigger reclassification for assault or battery.

Other Effects of the Bill:

The bill reenacts sections of law to incorporate amendments by the bill to statutes that are cross-referenced in the reenacted sections.

B. SECTION DIRECTORY:

Section 1. Amends s. 784.07, F.S., relating to assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.

Section 2. Reenacts s. 775.0877, F.S., relating to criminal transmission of HIV; procedures; penalties.

Section 3. Reenacts s. 901.15, F.S., relating to when arrest by officer without warrant is lawful.

Section 4. Reenacts s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 5. Reenacts s. 938.08, F.S., relating to additional cost to fund programs in domestic violence.

Section 6. Reenacts s. 938.085, F.S., relating to additional cost to fund rape crisis centers.

Section 7. Reenacts s. 943.051, F.S., relating to criminal justice information; collection and storage; fingerprinting.

Section 8. Reenacts s. 985.11, F.S., relating to fingerprinting and photographing.

Section 9. Reenacts s. 985.644, F.S., relating to Departmental contracting powers; personnel standards and investigation.

Section 10. Provides an effective date of October 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: The bill does not appear to have any impact on state government revenues.
2. Expenditures: The Criminal Justice Impact Conference (“CJIC”) has not considered the impact of this bill. It is anticipated that the bill will increase the need for state prison beds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: The bill does not appear to have any impact on local government revenues.

2. Expenditures: The bill may decrease the need for jail beds to the extent that it reclassifies first degree misdemeanors to third degree felonies. The bill may also increase the need for jail beds to the extent that it reclassifies second degree misdemeanors to first degree misdemeanors.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other: None.

B. RULE-MAKING AUTHORITY: The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2017, the Criminal Justice Subcommittee adopted two amendments and reported the bill favorably as a committee substitute (CS). The CS differs from the bill as filed in that the CS:

- Specifies that a health care provider must be engaged in the lawful performance of his or her duties.
- Revises the definition of health care provider so that it means a physician, a registered nurse, an employee, an agent, or a volunteer of a hospital or nursing home facility.
- Adds conforming cross-reference changes in ss. 901.15(15) and 985.644(3)(a), F.S.
- Removes unnecessary reenactments.

This analysis is drafted to the CS as passed by the Criminal Justice Subcommittee.