

By Senator Pizzo

38-01194-19

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1                   A bill to be entitled  
2       An act relating to assault or battery; amending s.  
3       784.07, F.S.; providing for reclassification of  
4       assault or battery offenses committed on certain  
5       persons when such persons are engaged in their lawful  
6       duties; reenacting ss. 775.0877(1)(d), (e), (f), and  
7       (g), 794.056(1), 921.0022(3)(d), 938.08, and 938.085,  
8       F.S., relating to criminal transmission of HIV, the  
9       Rape Crisis Program Trust Fund, the offense severity  
10      ranking chart of the Criminal Punishment Code,  
11      additional cost to fund domestic violence programs,  
12      and additional cost to fund rape crisis centers,  
13      respectively, to incorporate the amendments made by  
14      the act; providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18       Section 1. Subsection (2) of section 784.07, Florida  
19       Statutes, is amended to read:

20       784.07 Assault or battery of law enforcement officers,  
21       firefighters, emergency medical care providers, public transit  
22       employees or agents, or other specified officers;  
23       reclassification of offenses; minimum sentences.—

24       (2) Whenever any person is charged with knowingly  
25       committing an assault or battery upon a law enforcement officer,  
26       a firefighter, an emergency medical care provider, a railroad  
27       special officer, a traffic accident investigation officer as  
28       described in s. 316.640, a nonsworn law enforcement agency  
29       employee who is certified as an agency inspector, a blood

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30 alcohol analyst, or a breath test operator while such employee  
31 is in uniform and engaged in processing, testing, evaluating,  
32 analyzing, or transporting a person who is detained or under  
33 arrest for DUI, a law enforcement explorer, a traffic infraction  
34 enforcement officer as described in s. 316.640, a parking  
35 enforcement specialist as defined in s. 316.640, a person  
36 licensed as a security officer as defined in s. 493.6101 and  
37 wearing a uniform that bears at least one patch or emblem that  
38 is visible at all times that clearly identifies the employing  
39 agency and that clearly identifies the person as a licensed  
40 security officer, ~~or~~ a security officer employed by the board of  
41 trustees of a community college, a code enforcement officer as  
42 defined in s. 162.21, an employee of a state park or a park  
43 operated by a state subdivision, or a lifeguard certified under  
44 s. 514.071, while the officer, firefighter, emergency medical  
45 care provider, railroad special officer, traffic accident  
46 investigation officer, traffic infraction enforcement officer,  
47 inspector, analyst, operator, law enforcement explorer, parking  
48 enforcement specialist, public transit employee or agent, ~~or~~  
49 security officer, code enforcement officer, park employee, or  
50 lifeguard is engaged in the lawful performance of his or her  
51 duties, the offense for which the person is charged shall be  
52 reclassified as follows:

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

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

57 (c) In the case of aggravated assault, from a felony of the  
58 third degree to a felony of the second degree. Notwithstanding

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59 any other provision of law, any person convicted of aggravated  
60 assault upon a law enforcement officer shall be sentenced to a  
61 minimum term of imprisonment of 3 years.

62 (d) In the case of aggravated battery, from a felony of the  
63 second degree to a felony of the first degree. Notwithstanding  
64 any other provision of law, any person convicted of aggravated  
65 battery of a law enforcement officer shall be sentenced to a  
66 minimum term of imprisonment of 5 years.

67 Section 2. For the purpose of incorporating the amendment  
68 made by this act to section 784.07, Florida Statutes, in  
69 references thereto, paragraphs (d), (e), (f), and (g) of  
70 subsection (1) of section 775.0877, Florida Statutes, are  
71 reenacted to read:

72 775.0877 Criminal transmission of HIV; procedures;  
73 penalties.—

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

79 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),  
80 relating to assault;

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

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

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

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88 the court shall order the offender to undergo HIV testing, to be  
89 performed under the direction of the Department of Health in  
90 accordance with s. 381.004, unless the offender has undergone  
91 HIV testing voluntarily or pursuant to procedures established in  
92 s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or  
93 rule providing for HIV testing of criminal offenders or inmates,  
94 subsequent to her or his arrest for an offense enumerated in  
95 paragraphs (a)-(n) for which she or he was convicted or to which  
96 she or he pled nolo contendere or guilty. The results of an HIV  
97 test performed on an offender pursuant to this subsection are  
98 not admissible in any criminal proceeding arising out of the  
99 alleged offense.

100 Section 3. For the purpose of incorporating the amendment  
101 made by this act to section 784.07, Florida Statutes, in a  
102 reference thereto, subsection (1) of section 794.056, Florida  
103 Statutes, is reenacted to read:

104 794.056 Rape Crisis Program Trust Fund.—

105 (1) The Rape Crisis Program Trust Fund is created within  
106 the Department of Health for the purpose of providing funds for  
107 rape crisis centers in this state. Trust fund moneys shall be  
108 used exclusively for the purpose of providing services for  
109 victims of sexual assault. Funds credited to the trust fund  
110 consist of those funds collected as an additional court  
111 assessment in each case in which a defendant pleads guilty or  
112 nolo contendere to, or is found guilty of, regardless of  
113 adjudication, an offense provided in s. 775.21(6) and (10)(a),  
114 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.  
115 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.  
116 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.

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117 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;  
 118 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.  
 119 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.  
 120 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.  
 121 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.  
 122 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),  
 123 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust  
 124 fund also shall include revenues provided by law, moneys  
 125 appropriated by the Legislature, and grants from public or  
 126 private entities.

127 Section 4. For the purpose of incorporating the amendment  
 128 made by this act to section 784.07, Florida Statutes, in a  
 129 reference thereto, paragraph (d) of subsection (3) of section  
 130 921.0022, Florida Statutes, is reenacted to read:

131 921.0022 Criminal Punishment Code; offense severity ranking  
 132 chart.—

133 (3) OFFENSE SEVERITY RANKING CHART

134 (d) LEVEL 4

135

| Florida<br>Statute | Felony<br>Degree | Description   |
|--------------------|------------------|---|
| 316.1935(3)(a)     | 2nd              | Driving at high speed or with<br>wanton disregard for safety<br>while fleeing or attempting to<br>elude law enforcement officer<br>who is in a patrol vehicle with<br>siren and lights activated. |

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|-----|-----------------|-----|---|
| 138 | 499.0051 (1)    | 3rd | Failure to maintain or deliver transaction history, transaction information, or transaction statements. |
| 139 | 499.0051 (5)    | 2nd | Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.             |
| 140 | 517.07 (1)      | 3rd | Failure to register securities.   |
| 141 | 517.12 (1)      | 3rd | Failure of dealer, associated person, or issuer of securities to register.                              |
| 142 | 784.07 (2) (b)  | 3rd | Battery of law enforcement officer, firefighter, etc.   |
| 143 | 784.074 (1) (c) | 3rd | Battery of sexually violent predators facility staff.   |
| 144 | 784.075         | 3rd | Battery on detention or commitment facility staff.  |
| 145 | 784.078         | 3rd | Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.            |
|     | 784.08 (2) (c)  | 3rd | Battery on a person 65 years of   |

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age or older.

146

784.081 (3) 3rd Battery on specified official  
or employee.

147

784.082 (3) 3rd Battery by detained person on  
visitor or other detainee.

148

784.083 (3) 3rd Battery on code inspector.

149

784.085 3rd Battery of child by throwing,  
tossing, projecting, or  
expelling certain fluids or  
materials.

150

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

151

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

152

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

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|-----------------|-----|---|
| 787.07          | 3rd | Human smuggling.  |
| 790.115 (1)     | 3rd | Exhibiting firearm or weapon within 1,000 feet of a school.                                   |
| 790.115 (2) (b) | 3rd | Possessing electric weapon or device, destructive device, or other weapon on school property. |
| 790.115 (2) (c) | 3rd | Possessing firearm on school property.  |
| 800.04 (7) (c)  | 3rd | Lewd or lascivious exhibition; offender less than 18 years.                                   |
| 810.02 (4) (a)  | 3rd | Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.  |
| 810.02 (4) (b)  | 3rd | Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery. |
| 810.06          | 3rd | Burglary; possession of tools.  |



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|-----|---------------------------|-----|--|
| 162 | 810.08 (2) (c)            | 3rd | Trespass on property, armed with firearm or dangerous weapon.  |
| 163 | 812.014 (2) (c) 3.        | 3rd | Grand theft, 3rd degree \$10,000 or more but less than \$20,000.                                     |
| 164 | 812.014<br>(2) (c) 4.-10. | 3rd | Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.                             |
| 165 | 812.0195 (2)              | 3rd | Dealing in stolen property by use of the Internet; property stolen \$300 or more.                    |
| 166 | 817.505 (4) (a)           | 3rd | Patient brokering.   |
| 167 | 817.563 (1)               | 3rd | Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs. |
| 168 | 817.568 (2) (a)           | 3rd | Fraudulent use of personal identification information.   |
| 169 | 817.625 (2) (a)           | 3rd | Fraudulent use of scanning device, skimming device, or reencoder.                                    |

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|     |                 |     |   |
|-----|-----------------|-----|---|
| 170 | 817.625 (2) (c) | 3rd | Possess, sell, or deliver<br>skimming device.   |
| 171 | 828.125 (1)     | 2nd | Kill, maim, or cause great<br>bodily harm or permanent<br>breeding disability to any<br>registered horse or cattle. |
| 172 | 837.02 (1)      | 3rd | Perjury in official<br>proceedings.   |
| 173 | 837.021 (1)     | 3rd | Make contradictory statements<br>in official proceedings.   |
| 174 | 838.022         | 3rd | Official misconduct.  |
| 175 | 839.13 (2) (a)  | 3rd | Falsifying records of an<br>individual in the care and<br>custody of a state agency.                                |
| 176 | 839.13 (2) (c)  | 3rd | Falsifying records of the<br>Department of Children and<br>Families.  |
| 177 | 843.021         | 3rd | Possession of a concealed<br>handcuff key by a person in<br>custody.  |
|     | 843.025         | 3rd | Deprive law enforcement,  |

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correctional, or correctional  
probation officer of means of  
protection or communication.

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843.15(1)(a) 3rd Failure to appear while on bail  
for felony (bond estreature or  
bond jumping).

179

847.0135(5)(c) 3rd Lewd or lascivious exhibition  
using computer; offender less  
than 18 years.

180

874.05(1)(a) 3rd Encouraging or recruiting  
another to join a criminal  
gang.

181

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)5.  
drugs).

182

914.14(2) 3rd Witnesses accepting bribes.

183

914.22(1) 3rd Force, threaten, etc., witness,  
victim, or informant.

184

914.23(2) 3rd Retaliation against a witness,  
victim, or informant, no bodily  
injury.



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210 made by this act to section 784.07, Florida Statutes, in a  
211 reference thereto, section 938.085, Florida Statutes, is  
212 reenacted to read:

213       938.085 Additional cost to fund rape crisis centers.—In  
214 addition to any sanction imposed when a person pleads guilty or  
215 nolo contendere to, or is found guilty of, regardless of  
216 adjudication, a violation of s. 775.21(6) and (10) (a), (b), and  
217 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;  
218 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.  
219 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.  
220 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.  
221 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.  
222 796.07(2) (a)–(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.  
223 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.  
224 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.  
225 847.0145; s. 943.0435(4) (c), (7), (8), (9) (a), (13), and  
226 (14) (c); or s. 985.701(1), the court shall impose a surcharge of  
227 \$151. Payment of the surcharge shall be a condition of  
228 probation, community control, or any other court-ordered  
229 supervision. The sum of \$150 of the surcharge shall be deposited  
230 into the Rape Crisis Program Trust Fund established within the  
231 Department of Health by chapter 2003-140, Laws of Florida. The  
232 clerk of the court shall retain \$1 of each surcharge that the  
233 clerk of the court collects as a service charge of the clerk's  
234 office.

235       Section 7. This act shall take effect October 1, 2019.