

By the Committee on Criminal Justice; and Senator Pizzo

591-02653-19

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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.

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

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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 any of the state's political subdivisions, or a
44 lifeguard certified under s. 514.071, while the officer,
45 firefighter, emergency medical care provider, railroad special
46 officer, traffic accident investigation officer, traffic
47 infraction enforcement officer, inspector, analyst, operator,
48 law enforcement explorer, parking enforcement specialist, public
49 transit employee or agent, ~~or~~ security officer, code enforcement
50 officer, park employee, or lifeguard is engaged in the lawful
51 performance of his or her duties, the offense for which the
52 person is charged shall be 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 Statute | Felony Degree | Description |
|--------------------|------------------|---|
| 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. |

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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.

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

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

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784.083 (3) 3rd Battery on code inspector.

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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.

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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 (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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817.625 (2) (c) 3rd Possess, sell, or deliver
skimming device.

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828.125 (1) 2nd Kill, maim, or cause great
bodily harm or permanent
breeding disability to any
registered horse or cattle.

172

837.02 (1) 3rd Perjury in official
proceedings.

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837.021 (1) 3rd Make contradictory statements
in official proceedings.

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838.022 3rd Official misconduct.

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839.13 (2) (a) 3rd Falsifying records of an
individual in the care and
custody of a state agency.

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839.13 (2) (c) 3rd Falsifying records of the
Department of Children and
Families.

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843.021 3rd Possession of a concealed
handcuff key by a person in
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).

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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.

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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).

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914.14(2) 3rd Witnesses accepting bribes.

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

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

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- 918.12 3rd Tampering with jurors.
- 934.215 3rd Use of two-way communications
device to facilitate commission
of a crime.

Section 5. For the purpose of incorporating the amendment made by this act to section 784.07, Florida Statutes, in a reference thereto, section 938.08, Florida Statutes, is reenacted to read:

938.08 Additional cost to fund programs in domestic violence.—In addition to any sanction imposed for a violation of s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045, s. 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s. 784.083, s. 784.085, s. 794.011, or for any offense of domestic violence described in s. 741.28, the court shall impose a surcharge of \$201. Payment of the surcharge shall be a condition of probation, community control, or any other court-ordered supervision. The sum of \$85 of the surcharge shall be deposited into the Domestic Violence Trust Fund established in s. 741.01. The clerk of the court shall retain \$1 of each surcharge that the clerk of the court collects as a service charge of the clerk's office. The remainder of the surcharge shall be provided to the governing board of the county and must be used only to defray the costs of incarcerating persons sentenced under s. 741.283 and provide additional training to law enforcement personnel in combating domestic violence.

Section 6. For the purpose of incorporating the amendment

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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.