

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 951 Assaults on Specified Persons

**SPONSOR(S):** Transportation & Infrastructure Subcommittee, Beltran and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1416

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N, As CS	Johnson	Vickers
2) Justice Appropriations Subcommittee	12 Y, 0 N	Jones	Gusky
3) State Affairs Committee			

### SUMMARY ANALYSIS

The Department of Transportation has adopted rules establishing equipment and operational safety standards for bus transit systems. These standards do not currently require assault mitigation infrastructure and technology to be installed on buses.

CS/HB 951 requires every public transit provider operating regularly scheduled transit service for the general public to post at the entrance of each public transit vehicle a sign containing the following statement:

“ATTENTION: ASSAULTING A TRANSIT WORKER IS A FELONY PUNISHABLE BY UP TO 5 YEARS IN PRISON.”

Additionally, each public transit provider must create and implement a risk reduction program. Each risk reduction program must include conflict de-escalation training for transit operators and may include the deployment of assault mitigation infrastructure (including barriers to restrict the unwanted entry of individuals and objects into the transit operator’s workstation).

The bill provides that an assault against specified persons, including transit operators, is reclassified from a second degree misdemeanor to a third degree felony. The effect of this change is that the maximum penalty increases from up to a year in county jail to up to five years in state prison.

The bill provides a statement that the Legislature finds and declares that this bill fulfills an important state interest.

The Criminal Justice Impact Conference reviewed CS/HB 951 on February 10, 2020, and determined increasing the penalty for assault against such specified persons will have a “positive significant” prison bed impact (an increase of more than 25 prison beds). The bill may have an indeterminate negative fiscal impact on local government. See Fiscal Analysis and Economic Impact Statement.

The bill provides an effective date of October 1, 2020.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Transit Worker Safety

Section 341.031, F.S., defines the term “public transit provider” as a public agency providing public transit service, including rail authorities created in Ch. 343, F.S.<sup>1</sup> The term “public transit” is defined as the transporting of people by conveyances, or systems of conveyances, traveling on land or water, local or regional in nature, and available for use by the public. Public transit systems may be either governmentally owned or privately owned.<sup>2</sup>

Rule 14-90, F.A.C., provides the Department of Transportation’s rules for equipment and operational safety standards for bus transit systems,<sup>3</sup> including minimum equipment safety standards for buses. Currently, these standards do not require assault mitigation infrastructure and technology to be installed on buses.<sup>4</sup>

##### Assault on Specified Persons

Assault, which is classified as a second degree misdemeanor, is defined as 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.<sup>5</sup>

Section 784.07(2), F.S., reclassifies the misdemeanor or felony degree of assault, aggravated assault, battery, and aggravated battery when a person is charged with knowingly committing any of these offenses upon the following specified persons while he or she is engaged in the lawful performance of his or her duties:

- A law enforcement officer;
- A firefighter;
- An emergency medical care provider;
- A railroad special officer;
- A traffic accident investigation officer;
- A nonsworn law enforcement agency employee;
- A law enforcement explorer;
- A traffic infraction enforcement officer;
- A parking enforcement specialist;
- A uniformed licensed security officer;
- A security officer employed by the board of trustees of a community college; or
- A public transit employee or agent.<sup>6</sup>

The reclassification of the degree of the offense is as follows:

- In the case of assault, from a second degree misdemeanor to a first degree misdemeanor;

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<sup>1</sup> Section 341.031(1), F.S.

<sup>2</sup> Section 341.031(6), F.S.

<sup>3</sup> Rule 14-90.002(2), F.A.C., defines the term “bus transit system” means a community transportation coordinator; a public transit provider; or a private contract transit provider which owns, operates, leases, or controls buses or taxicabs where such transportation consists of continuous or recurring transportation under the same contract; or a privately owned or operated transit provider that receives operational or capital funding from the Department and owns, operates, leases, or controls buses, other than nonpublic sector buses that provides transportation services available for use by the general riding public.

<sup>4</sup> Rule 14-90.007, F.A.C.

<sup>5</sup> Section 784.011(1) and (2), F.S.

<sup>6</sup> Section 784.07(1)(e), F.S., defines the term “public transit employees or agents” as 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)(I), F.S.

- In the case of battery, from a first degree misdemeanor to a third degree felony;
- In the case of aggravated assault, from a third degree felony to a second degree felony, and any person convicted of aggravated assault upon a law enforcement officer is subject to a mandatory three-year minimum term of imprisonment; and
- In the case of aggravated battery, from a second degree felony to a first degree felony, and any person convicted of aggravated battery of a law enforcement officer is subject to a mandatory five-year minimum term of imprisonment.

Reclassifying an offense has the effect of increasing the maximum sentence that may be imposed for an offense. The maximum sentence that may be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- Sixty days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- Fifteen years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.<sup>7</sup>

## **Effect of the Bill**

### Requirements for Public Transit Providers

The bill requires that, by January 1, 2021, every public transit provider operating regularly scheduled transit service for the general public must post in at least one conspicuous place at the entrance of each public transit vehicle a yellow sign with black, bold type font no smaller than 48 point containing the following statement:

“ATTENTION: ASSAULTING A TRANSIT WORKER IS A FELONY PUNISHABLE BY UP TO 5 YEARS IN PRISON.”

By July 1, 2021, each public transit provider must create and implement a risk reduction program. Each risk reduction program must include conflict de-escalation training for transit operators. The risk-reduction program may include the deployment of assault mitigation infrastructure and technology on public transit vehicles (including barriers to restrict the unwanted entry of individuals and objects into transit operator’s workstations).

### Revision of the Degree Designation of Assault

The bill clarifies that s. 784.07, F.S., applies to an assault or battery on a public transit employee or agent, by including a specific reference to a public transit employee or agent in the list of officers or employees who have been assaulted or battered (as charged).

The bill reclassifies the felony or misdemeanor degree of assaults on specified persons providing that an assault against any of these specified persons is reclassified from a second degree misdemeanor to a third degree felony. Currently, such an assault is reclassified from a second degree misdemeanor to a first degree misdemeanor. The effect of this change is that an assault reclassified to a third-degree felony has a maximum penalty of five years in state prison; in contrast, the maximum penalty for an assault currently reclassified as a first-degree misdemeanor is a year in county jail.

### Statement of Important State Interest

The bill provides a statement that the Legislature finds and declares that the bill fulfills an important state interest.

### Effective Date

The bill provides an effective date of October 1, 2020.

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<sup>7</sup> Section 775.082, F.S. (maximum penalties). Fines may also be imposed, and those fines escalate based on the degree of the offense. Section 775.082, F.S., provides the following maximum fines: \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

**B. SECTION DIRECTORY:**

**Section 1:** Creates s. 341.0611, F.S., relating to transit worker safety.

**Section 2:** Amends s. 784.07, F.S., relating to assault or battery of specified officers.

**Section 3:** Provides a declaration of important state interest.

**Section 4:** Provides an effective date of October 1, 2020.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

The bill does not appear to impact state revenues.

**2. Expenditures:**

The Criminal Justice Impact Conference reviewed CS/HB 951 on February 10, 2020, and determined increasing the penalty for assault against such specified persons will have a “positive significant” prison bed impact (an increase of more than 25 prison beds).<sup>8</sup>

In Fiscal Year 2018-19, there were 400 new commitments to prison for assault or battery offenses against persons specified in s. 784.07, F.S. Where a second degree misdemeanor was reclassified as a first degree misdemeanor pursuant to s. 784.07, F.S., there were 259 guilty convictions and 77 adjudications withheld. The large number of those impacted would be expected to be enough to reach a significant impact.<sup>9</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

The bill does not appear to impact local government revenues.

**2. Expenditures:**

The bill may have an indeterminate negative fiscal impact on local governments. Local governments will likely incur expenditures associated with installing signs on each public transit vehicle and the implementation of a risk reduction program. The bill may also have an indeterminate impact on county jail beds due to the increased penalty.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

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<sup>8</sup> Criminal Justice Impact Conference Narrative Analysis of Adopted Amendments for CS/SB 1416 (Identical CS/HB 951). (Copy on file with Justice Appropriations Subcommittee).

<sup>9</sup> *Id.*

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill requires public transit agency to install signs in public transit vehicles; however, an exception may apply since similarly situated persons are all required to comply. Furthermore, the bill indicates that the Legislature finds and declares that this act fulfills an important state interest.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Transportation will need to update its bus transit equipment and operational safety rules<sup>10</sup> to be consistent with provisions in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 4, 2020, the Transportation & Infrastructure Subcommittee adopted a strike-all amendment and reported the bill favorably as committee substitute. The strike-all amendment:

- Revised the requirements for the risk reduction programs by making the erection of assault mitigation infrastructure optional, rather than mandatory.
- Clarified that s. 784.07, F.S., regarding assault and battery on specified persons includes transit operators and agents.
- Provided a statement of important state interest.

This analysis is drafted to the committee substitute as approved by the Transportation & Infrastructure Subcommittee.

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<sup>10</sup> Rule 14-90, F.A.C.  
**STORAGE NAME:** h0951c.JUA  
**DATE:** 2/12/2020