

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: CS/SB 980

INTRODUCER: Criminal Justice Committee and Senator Perry

SUBJECT: Battery upon Public Transit Workers

DATE: March 3, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	_____	_____	<u>ATD</u>	_____
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 980 creates s. 341.0611, F.S., which provides that:

- By January 1, 2022, 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 sign in accordance with specifications in the bill containing the following statement: “ATTENTION: COMMITTING A BATTERY UPON A TRANSIT WORKER IS A FELONY PUNISHABLE BY UP TO 5 YEARS IN PRISON.”
- By July 1, 2022, such public transit provider must create and implement a risk reduction program. Each risk reduction program must include conflict deescalation training for public transit employees and agents, and may include the deployment of battery mitigation infrastructure and technology on public transit vehicles, including barriers to restrict the unwanted entry of individuals and objects into the workstations of public transit employees and agents.

The bill also amends s. 784.07, F.S., which enhances punishment for assaults and batteries committed upon specified officials. A public transit employee or agent is included in the list of specified officials but the statute is missing one reference to public transit employee or agent. The bill corrects this omission.

Because the bill does not expand the scope of s. 784.07, F.S., or create or increase penalties, the bill does not appear to have any prison bed impact. The bill may have a fiscal impact on public transit providers. See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2021.

## II. Present Situation:

Section 784.07(2), F.S., reclassifies the misdemeanor or felony degree of assault,<sup>1</sup> aggravated assault,<sup>2</sup> battery,<sup>3</sup> and aggravated battery<sup>4</sup> when a person is charged with knowingly committing any of these offenses upon an officer or employee described as follows while that officer or employee 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 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;
- A traffic infraction enforcement officer;
- A parking enforcement specialist;
- A person licensed as a security officer and wearing a uniform bearing at least one patch or emblem that is visible at all times and clearly identifies the person's employing agency and that the person is a licensed security officer;
- A security officer employed by the board of trustees of a community college; or
- A public transit employee or agent.<sup>5</sup>

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<sup>1</sup> Assault, which is a second degree misdemeanor, 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. Section 784.011(1) and (2), F.S.

<sup>2</sup> Aggravated assault, which is a third degree felony, is the commission of an assault using a deadly weapon without intent to kill or the commission of an assault with the intent to commit a felony. Section 784.021(1) and (2), F.S.

<sup>3</sup> Simple battery, which is a first degree misdemeanor, is actually and intentionally touching or striking another person against the will of that person or intentionally causing bodily harm to another person. Section 784.03(1)(a), F.S.

<sup>4</sup> A person commits aggravated battery, a second degree felony, if the person, in committing a battery: intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; uses a deadly weapon; or the person who was the victim of the battery was pregnant at the time of the offense and the offender knew or should have known that the victim was pregnant. Section 784.045(1) and (2), F.S.

<sup>5</sup> "Public transit employees or agents" is defined in s. 784.07(1)(e), F.S., 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)(l), F.S. There is no specific reference in the statute to a public transit employee or agent in the list of officers and employees referenced as being subject to an assault or battery, which triggers the reclassification if the assault or battery occurs while the officer or employee is engaged in his or her lawful duties. A public transit employee or agent is only referenced in regard to a listed officer or employee engaged in performance of his or her lawful duties. Further, the Florida jury instruction for s. 784.07(2)(a), F.S. (relating to reclassification of the degree of assault) does not specifically reference a public transit employee or agent. Fla. Std. Jury Instr. (Crim.) 8.10. However, notwithstanding the specific reference omission, it appears that the statute has been applied when the victim is a public transit employee. *See, e.g., Walker v. State*, 193 So.3d 946, 948-949 (Fla. 4th DCA 2016), rehearing denied, 193 So.3d 990 (Fla. 4th DCA 2016) (appellate court stating that the charges against the appellant included a count relating to battery on a public transit employee in violation of ss. 784.03(1), 784.07(1)(e), and 784.07(2)(b), F.S., and the appellant was found guilty as charged on this count).

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;
- 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.

Further, if the person, during the commission of a battery subject to reclassification as a third degree felony, possessed:

- A firearm or destructive device, the person is subject to a mandatory minimum term of imprisonment of three years; or
- A semiautomatic firearm and its high-capacity detachable box magazine or a machine gun, the person is subject to a mandatory minimum term of imprisonment of eight years.<sup>6</sup>

Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for an offense. The maximum sentence that can 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>

### **III. Effect of Proposed Changes:**

#### **New Requirements Relating to Certain Public Transit Providers**

The bill creates s. 341.0611, F.S., which provides that:

- By January 1, 2022, 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 sign in accordance with specifications in the bill containing the following statement: “ATTENTION: COMMITTING A BATTERY UPON A PUBLIC TRANSIT WORKER IS A FELONY PUNISHABLE BY UP TO 5 YEARS IN PRISON.”
- By July 1, 2022, such public transit provider must create and implement a risk reduction program. Each risk reduction program must include conflict deescalation training for public transit employees and agents, and may include the deployment of battery mitigation

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<sup>6</sup> Section 784.07(3)(a) and (b), F.S. Additionally, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release, prior to serving the minimum sentence. Section 784.07(3), F.S.

<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.

infrastructure and technology on public transit vehicles, including barriers to restrict the unwanted entry of individuals and objects into the workstations of public transit employees and agents.

### **Declaration of Important State Interest**

The bill includes a declaration of important state interest supporting the requirements that public transit providers conspicuously post signage that provides notification of the criminal penalties for battery on a public transit worker, and also create and implement a risk reduction program that includes conflict deescalation training.

### **Correcting a Missing Reference in s. 784.07, F.S., to Public Transit Employee or Agent**

The bill also amends s. 784.07, F.S., which enhances punishment for assaults and batteries committed upon specified officials. A public transit employee or agent is included in the list of specified officials but the statute is missing one reference to public transit employee or agent.<sup>8</sup> The bill corrects this omission.

### **Effective Date**

The bill takes effect October 1, 2021.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(a) of the State Constitution provides that: “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: ...the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature....”

This bill requires public transit providers to post signage (as specified in the bill), and create and implement a risk reduction program that must include conflict deescalation training for transit operators. These requirements may cause public transit providers to spend funds.

Article VII, section 18(d) of the State Constitution, provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. If the bill does qualify as a mandate, and no exemption applies, in order to be binding on the counties, the bill must include a finding of important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

The bill includes a declaration of an important state interest supporting the requirements that public transit providers conspicuously post signage that provides notification of the criminal penalties for battery on a public transit worker, and also create and implement a

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<sup>8</sup> See footnote 5.

risk reduction program that includes conflict deescalation training (see “Effect of Proposed Changes” section of this analysis).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill requires public transit providers to post signage (as specified in the bill), and create and implement a risk reduction program that must include conflict deescalation training for transit operators. Public transit providers may see an increase in costs to comply with the bill’s requirements.

The original bill amended s. 784.07, F.S., to increase an assault upon a specified official from a second degree misdemeanor to a third degree felony. The Legislature’s Office of Economic and Demographic Research preliminarily estimated that the original bill would have a “positive significant” prison bed impact (an increase of more than 25 prison beds).<sup>9</sup> However, CS/SB 980 does not amend s. 784.07, F.S., to increase an assault upon a specified official from a second degree misdemeanor to a third degree felony, and does not otherwise expand the scope of s. 784.07, F.S., or create or increase penalties. Therefore, CS/SB 980 does not appear to have a prison bed impact.

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<sup>9</sup> The EDR’s preliminary estimate of SB 980 is on file with the Senate Committee on Criminal Justice.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 784.07 of the Florida Statutes.

This bill creates section 341.0611 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on March 2, 2021:**

The committee substitute removes language that amended s. 784.07, F.S., to increase the degree of an assault upon a specified official from a second degree misdemeanor to a third degree felony, and makes conforming changes to a signage requirement and other requirements consistent with that change.

- B. **Amendments:**

None.