

**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: SB 234

INTRODUCER: Senator Leek

SUBJECT: Criminal Offenses Against Law Enforcement Officers and Other Personnel

DATE: February 10, 2025

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

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vaughan</u>	<u>Stokes</u>	<u>CJ</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ACJ</u>	_____
3.	_____	_____	<u>FP</u>	_____

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**I. Summary:**

SB 234 amends s. 776.051, F.S., to revise language to expand law enforcement officers' protection from citizens' use or threatened use of force during an arrest or detention. The bill prohibits a person from using or threatening to use force to resist *a lawful or an unlawful arrest or detention*, or resisting an officer *acting in the performance of his or her legal duties as described in s. 943.10(1)*, F.S., if he or she is known, or reasonably appears, to be a law enforcement officer.

The language requiring that an officer must *be engaged in the execution of a legal duty, if the law enforcement officer was acting in good faith* is removed.

Additionally the bill removes provisions stating that a law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, is not justified in the use of force if the arrest or execution of a legal duty is unlawful and known to be unlawful.

The bill amends s. 782.065, F.S., to add manslaughter to the list of crimes that a person must be sentenced to life imprisonment without the eligibility of release upon conviction, if such offense was committed against specified officers<sup>1</sup> *who were acting in the performance of their official duties as described in s. 943.10, F.S.*

The bill also amends s. 784.07(2), F.S., relating to assault or battery on an officer, to specify that such *officer is acting in the performance of his or her official duties*. The bill removes language requiring the officer be engaged in the lawful performance of his or her duties.

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<sup>1</sup> Specified officers include law enforcement officers, part-time law enforcement officers, auxiliary law enforcement officers, correctional officers, part-time correctional officers, auxiliary correctional officers, correctional probation officers, part-time correctional probation officers, or auxiliary correctional probation officers, as those terms are defined in ss. 782.065 and 943.10, F.S.

Additionally, the bill provides the duties and responsibilities of such positions are described in s. 943.10, F.S.

The bill amends s. 843.01(1), F.S., relating to resisting, obstructing, or opposing an officer with violence, to specify that such officer is acting in the performance of his or her official duties as described in s. 943.10, F.S. The bill removes language requiring an officer be engaged in the lawful performance of his or her duties.

The bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill takes effect on October 1, 2025.

## II. Present Situation:

Officer Jason Raynor was a dedicated member of the Daytona Beach Police Officer who was shot by Othal Wallace during questioning on June 23, 2021, and succumbed to his injuries on August 21, 2021.<sup>2</sup> Officer Raynor joined the Daytona Beach police Department in February 2019 after previously serving with the Port Orange Police Department. While employed at the Port Orange Police Department, he received an award of achievement in December 2018 for heroically rescuing a citizen attempting to jump from a bridge.<sup>3</sup>

A “Law enforcement officer” is any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The term includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. The term also includes a special officer employed by a Class I, Class II, or Class III railroad pursuant to s. 354.01, F.S.<sup>4</sup>

### Use of Force or Threatened Use of Force

Section 776.012, F.S., provides that a person is justified in using or threatening to use force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against the other’s

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<sup>2</sup> The Daytona Beach News-Journal, *Daytona Beach Police Officer Jason Raynor dies 55 days after he was shot while on patrol*, Frank Fernandez, August 19, 2021, available at <https://www.news-journalonline.com/story/news/2021/08/17/daytona-beach-police-officer-jayson-raynor-dies-othal-wallace/8174227002/> (last visited February 6, 2025).

<sup>3</sup> *WFTV9, Heart of gold: Who is Jason Raynor, the Daytona Beach police officer shot in the head?*, available at <https://www.wftv.com/news/local/volusia-county/heart-gold-who-is-jason-raynor-daytona-beach-police-officer-shot-head/XUDRYZFUBBDCBFVLNZR4SAYD24/> (last visited February 6, 2025).

<sup>4</sup> Section 943.10(1), F.S.

imminent use of unlawful force. A person who uses or threatens to use force in accordance with this subsection does not have a duty to retreat before using or threatening to use such force.<sup>5</sup>

Additionally, a person is justified in using or threatening to use deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony. A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be.<sup>6</sup>

Section 776.051, F.S., provides that a person is not justified in the use or threatened use of force to resist an arrest by a law enforcement officer, or to resist a law enforcement officer who is engaged in the execution of a legal duty, if the law enforcement officer was acting in good faith and he or she is known, or reasonably appears, to be a law enforcement officer.<sup>7</sup>

A law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, is not justified in the use of force if the arrest or execution of a legal duty is unlawful and known by him or her to be unlawful.<sup>8</sup>

Courts have found that ss. 776.012 and 776.051, F.S. (1974), were both enacted as a part of the same act.<sup>9</sup> Statutes that are a part of a single act must be read in *pari materia*.<sup>10</sup> The effect of reading these statutes in *pari materia* is to permit an individual to defend himself against unlawful or excessive force, even when being arrested.<sup>11</sup> This view is consistent with the position taken by other jurisdictions that have been confronted with questions relating to statutes similar to ss. 776.012, 776.051 and 843.01, F.S.<sup>12</sup>

Chapter 776, Florida Statutes, recognizes principles set forth in the case law of other jurisdictions in that the right of self-defense against the use of excessive force by a police officer is a concept entirely different from resistance to an arrest, lawful or unlawful, by methods of self-help. [citations omitted] The former concept is grounded on the view that a citizen should be able to exercise reasonable resistance to protect life and limb; which cannot be repaired in the courtroom. The latter view is based on the principle that a self-help form of resistance promotes intolerable disorder. Any damage done by an improper arrest can be repaired through the legal processes.

Therefore, self-defense is not “irrelevant” to a prosecution for resisting arrest with violence.<sup>13</sup>

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<sup>5</sup> Section 776.012(1), F.S.

<sup>6</sup> Section 776.012(2), F.S.

<sup>7</sup> Section 776.051(1), F.S.

<sup>8</sup> Section 776.051(2), F.S.

<sup>9</sup> See ch. 74-383 L.O.F.

<sup>10</sup> *Ivester v. State*, 398 So. 2d 926 (Fla. 1st DCA 1981), citing *Major v. State*, 180 So.2d 335, 337 (Fla.1965).

<sup>11</sup> *Ivester v. State*, 398 So.2d 926 (Fla. 1981).

<sup>12</sup> *Id.*

<sup>13</sup> *Ivester v. State*, 398 So.2d 926 (Fla. 1981).

### ***Assault or Battery on Law Enforcement***

Under s. 784.07(2), F.S., a person charged with of an assault or battery, or the attempt to commit such offense upon a law enforcement officer, or other specified persons, must have the offense reclassified as follows:

- In the case of assault, from a second degree misdemeanor<sup>14</sup> to a first degree misdemeanor.<sup>15</sup>
- In the case of battery, from a first degree misdemeanor to a third degree felony. A person convicted of battery upon a law enforcement officer committed in furtherance of a riot or an aggravated riot prohibited under s. 870.01, F.S., must be sentenced to a minimum term of imprisonment of 6 months.
- In the case of aggravated assault, from a third degree felony<sup>16</sup> to a second degree felony. Any person convicted of aggravated assault upon a law enforcement officer must be sentenced to a minimum term of imprisonment of three years.
- In the case of aggravated battery, from a second degree felony<sup>17</sup> to a first degree felony. Any person convicted of aggravated battery of a law enforcement officer must be sentenced to a minimum term of imprisonment of five years.

The Florida Bar's Florida Standard Criminal Jury Instructions for Assault, Battery, Stalking, Culpable Negligence, And Violation of Injunctions include specific instructions for assault on a law enforcement officer and battery on a law enforcement officer or other specified personnel. The instructions require the *victim* to have been engaged in the lawful performance of his or her duty.<sup>18</sup>

### ***Murder of a Law Enforcement Officer, Correctional Officer, or Probation Officer***

Under s. 782.065, F.S., a person convicted of a murder offense upon a law enforcement officer<sup>19</sup> engaged in the performance of a legal duty, must be sentenced to life imprisonment without eligibility for release. Such murder offenses include:

- Murder in the first degree in violation of s. 782.04(1), F.S., when a death sentence was not imposed;
- Murder in the second or third degree in violation of s. 782.04(2), (3), or (4), F.S.;
- Attempted murder in the first or second degree in violation of s. 782.04(1)(a)1. or (2), F.S.; or
- Attempted felony murder in violation of s. 782.051, F.S.

<sup>14</sup> A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, as provided in s. 775.082 or s. 775.083, F.S.

<sup>15</sup> A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year. Sections 775.082 and 775.083, F.S.

<sup>16</sup> A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

<sup>17</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine; A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

<sup>18</sup> Florida Standard Jury Instruction 8.10 and 8.11 (Crim).

<sup>19</sup> Section 782.065(2), F.S., includes a law enforcement officer, part-time law enforcement officer, auxiliary law enforcement officer, correctional officer, part-time correctional officer, auxiliary correctional officer, correctional probation officer, part-time correctional probation officer, or auxiliary correctional probation officer, as those terms are defined in s. 943.10, F.S., engaged in the lawful performance of a legal duty.

### ***Resisting Arrest***

Under s. 843.01, F.S., a person who knowingly and willfully resists, obstructs, or opposes specified officers or other persons legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, by offering or doing violence to the person of such officer or legally authorized person, commits a third degree felony.<sup>20</sup>

Officers specified in s. 843.01, F.S., include:

- Law enforcement officer, correctional officer, correctional probation officer, part-time law enforcement officer, part-time correctional officer or auxiliary law enforcement officer;<sup>21</sup>
- Members of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission;
- Parole and probation supervisors;
- County probation officers; or
- Personnel or representatives of the Department of Law Enforcement.

The Florida Bar's Florida Standard Criminal Jury Instructions for Obstruction of Justice, resisting an officer with violence provides a special instruction incorporating s. 776.051(1), F.S. should be given when the defendant is charged with resisting an arrest by a law enforcement officer or with resisting a law enforcement officer and the defense claims the officer was acting unlawfully.<sup>22</sup> A special instruction for juries incorporating instructions for justifiable use of deadly force should be given when the defense claims that the defendant was justified in using or threatening to use deadly force if he or she reasonably believed that such force was necessary to prevent imminent death or bodily harm.<sup>23</sup>

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

The bill is named the Jason Raynor Act and is named after Officer Jason Raynor of the Daytona Beach Police Department who was shot during a confrontation in 2021 and later succumbed to his injuries.

The bill amends s. 776.051, F.S., to revise language to expand law enforcement officers' protection from citizens' use or threatened use of force during an arrest or detention. The bill prohibits a person from using or threatening to use force to resist *a lawful or an unlawful arrest or detention*, or resisting an officer *acting in the performance of his or her legal duties as described in s. 943.10(1)*, F.S., if he or she is known, or reasonably appears, to be a law enforcement officer.

Language requiring that an officer must *be engaged in the execution of a legal duty, if the law enforcement officer was acting in good faith*, is removed.

<sup>20</sup> Section 843.01, F.S.

<sup>21</sup> Section 943.10(1), (2), (3), (6), (7), (8), or (9), F.S.

<sup>22</sup> Florida Standard Jury Instruction 8.13 (Crim).

<sup>23</sup> Florida Standard Jury Instruction 3.6f (Crim).

Additionally the bill removes provisions stating that a law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, is not justified in the use of force if the arrest or execution of a legal duty is unlawful and known to be unlawful.

The bill amends s. 782.065, F.S., to add manslaughter to the list of crimes that a person must be sentenced to life imprisonment without the eligibility of release upon conviction, if such offense was committed against specified officers<sup>24</sup> *who were acting in the performance of their official duties as described in s. 943.10, F.S.*

The bill also amends s. 784.07(2), F.S., relating to assault or battery on an officer, to specify that such *officer is acting in the performance of his or her official duties*. The bill removes language requiring the officer be engaged in the lawful performance of his or her duties.

Additionally, the bill provides the duties and responsibilities of such positions are described in s. 943.10, F.S.

The bill amends s. 843.01(1), F.S., relating to resisting, obstructing, or opposing an officer with violence, to specify that such officer is acting in the performance of his or her official duties as described in s. 943.10, F.S. The bill removes language requiring an officer be engaged in the lawful performance of his or her duties.

The bill takes effect on October 1, 2025.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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<sup>24</sup> Specified officers include law enforcement officers, part-time law enforcement officers, auxiliary law enforcement officers, correctional officers, part-time correctional officers, auxiliary correctional officers, correctional probation officers, part-time correctional probation officers, or auxiliary correctional probation officers, as those terms are defined in ss. 782.065. and 943.10, F.S.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

- Per the DOC, in FY 23-24, there were 5 new commitments to prison under s. 782.065, F.S., 389 new commitments to prison under s. 784.07, F.S., and 189 new commitments to prison under s. 843.01, F.S. There were two new commitments to prison for manslaughter of law enforcement officers, correctional officers, correctional probation officers, or other first responders (s. 782.07, F.S.). Both ss. 782.07, F.S. and 784.07, F.S. include other specified personnel, so it is not known how many of these offenses involve the respective positions listed under s. 943.10, F.S. Furthermore, it is not known how the removal of police acting lawfully would impact the prison population.<sup>25</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill language specifies that the duties of a law enforcement officer are provided in s. 943.10(1), F.S., however that reference provides a definition only and may not be inclusive of all duties.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 776.051, 782.065, 784.07, and 843.01.

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<sup>25</sup> Office of Economic and Demographic Research, *SB 234 - Criminal Offenses Against Law Enforcement Officers and Other Personnel*, (on file with the Senate Committee on Criminal Justice).

**IX. Additional Information:**

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

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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