

# FLORIDA HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

<b>BILL #:</b> <a href="#">CS/HB 17</a> <b>TITLE:</b> Criminal Offenses Against Law Enforcement Officers and Other Personnel <b>SPONSOR(S):</b> Baker	<b>COMPANION BILL:</b> <a href="#">CS/SB 156</a> (Leek) <b>LINKED BILLS:</b> None <b>RELATED BILLS:</b> None
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**FINAL HOUSE FLOOR ACTION:** 103 Y's      8 N's      **GOVERNOR'S ACTION:** Pending

## SUMMARY

### **Effect of the Bill:**

The bill amends statutes related to resisting or committing violence against a law enforcement officer to require that the officer be engaged in the performance of his or her official duties, rather than engaged in the lawful performance or execution of a legal duty. As it relates to the prohibition on using or threatening to use force to resist an arrest, the bill defines "acting in good faith" and repeals a provision which specifies a law enforcement officer is not justified in using force if an arrest or execution of a legal duty is unlawful and known by the officer to be unlawful. Additionally, the bill adds manslaughter of a law enforcement officer to the list of offenses for which a court must sentence a convicted defendant to life imprisonment without eligibility for release, and increases the ranking for the offense of battery on a law enforcement officer or other specified personnel on the offense severity ranking chart of the Criminal Punishment Code.

### **Fiscal or Economic Impact:**

The bill may have a positive indeterminate impact on prison beds by enhancing the penalty for manslaughter of a law enforcement officer to require a court to sentence a person convicted of such an offense to life imprisonment without eligibility for release, and by increasing the ranking for battery on a law enforcement officer or other specified personnel on the offense severity ranking chart of the Criminal Punishment Code, which may result in longer incarcerative sentences for such an offense.

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## ANALYSIS

### **EFFECT OF THE BILL:**

CS/HB 17 passed as [CS/SB 156](#).

The bill amends specified criminal statutes to revise the current requirement for a [law enforcement officer](#) or other specified personnel to *be engaged in the lawful performance or execution of a legal duty* to instead require that a law enforcement officer or other specified personnel *be engaged in the performance of his or her official duties* as described in [s. 943.10, F.S.](#) Such criminal offenses include:

- [Murder of a law enforcement officer or other specified personnel](#);
- [Assault or battery of a law enforcement officer or other specified personnel](#); and
- [Resisting a legally authorized person with violence](#). (Sections [3](#), [4](#), and [5](#))

Additionally, the bill amends requirements related to the justifiable use of force in resisting an arrest when a law enforcement officer is acting in good faith and is known, or reasonably appears, to be a law enforcement officer. Specifically, the bill revises the current requirement for a law enforcement officer to *be engaged in the execution of a legal duty* for the prohibition against using or threatening force against such an officer to apply, to instead require that a law enforcement officer *be engaged in the performance of his or her official duties* as described in [s. 943.10, F.S.](#), for the prohibition to apply. The bill creates a definition for the term "acting in good faith" to mean to make sincere and reasonable efforts to comply with legal requirements, even if the arrest, detention, or other act is later found to have been unlawful. (Section [2](#))

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The bill further removes any reference to an officer being engaged in the *execution of a legal duty* by repealing a prohibition which specifies that a law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, is not justified in using force if the arrest or execution of a legal duty is unlawful and known by him or her to be unlawful. (Section [2](#))

The bill also expands the list of offenses for which a court must sentence a defendant to life imprisonment without eligibility for release, currently limited to the murder or attempted murder of a law enforcement officer, to also include [manslaughter](#) of a law enforcement officer or other specified personnel under [s. 782.07\(1\), F.S.](#) (Section [3](#))

The bill increases the ranking for the offense of battery on a law enforcement officer or other specified personnel under [s. 784.07\(2\)\(b\), F.S.](#), on the [offense severity ranking chart](#) (OSRC) of the Criminal Punishment Code from a Level 4 to a Level 5 offense, thereby increasing the potential minimum sentence for which a person may be incarcerated. (Section [6](#))

The act is named the “Officer Jason Raynor Act.” (Section [1](#))

Subject to the Governor’s veto powers, the effective date of this bill is upon becoming a law. (Section [7](#))

## FISCAL OR ECONOMIC IMPACT:

### STATE GOVERNMENT:

The bill may have a positive indeterminate impact on prison beds by enhancing the penalty for manslaughter of a law enforcement officer to require a court to sentence a person convicted of such an offense to life imprisonment without eligibility for release, and by increasing the ranking for battery on a law enforcement officer or other specified personnel on the offense severity ranking chart of the Criminal Punishment Code, which may result in increased terms of incarceration for specified offenders.

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### Duties of a Law Enforcement Officer

[Section 943.10\(1\), F.S.](#), defines a [law enforcement officer](#) (LEO) as:

- Any person 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 Florida’s penal, criminal, traffic, or highway laws.<sup>1</sup>

Florida courts have held that an officer is engaged in the performance of his or her official duties when acting within the scope of his or her employment.<sup>2</sup>

#### Use of Force

Section [776.051, F.S.](#), outlines limitations related to the lawful use of force and specifies that:

<sup>1</sup> The statutory definitions of “law enforcement officer” uniformly describe the “primary responsibility” of law enforcement officers as “the prevention and detection of crime or the enforcement of the penal, traffic, or highway laws of this state.” This broad description of responsibilities or duties is not limited to execution of warrants, service of process, or actual arrests ... [and] the scope of an officer’s official duties is not coextensive with his power to arrest.” *Finkelstein v. State*, 157 So. 3d 1085, 1088 (Fla. 1st DCA 2015) (internal citations omitted).

<sup>2</sup> See *State v. A.R.R.*, 113 So. 3d 942, 944-45 (Fla. 5th DCA 2013) (citations omitted).

- A person is not justified in using or threatening to use force to resist an arrest by a LEO, or to resist a LEO who is *engaged in the execution of a legal duty*, if the LEO was acting in good faith and he or she is known, or reasonably appears, to be a LEO.<sup>3</sup>
- A LEO, or any person whom the officer has summoned or directed to assist him or her, is not justified in using force if the arrest or execution of a legal duty is unlawful and known by him or her to be unlawful.<sup>4</sup>

The Florida Supreme Court has explained that, in arrest situations, Florida courts have consistently read [s. 776.051\(1\), F.S.](#), together with offenses described in [s. 784.07\(2\), F.S.](#) (assault or battery of a LEO), and [s. 843.01, F.S.](#) (resisting a LEO with violence), and, in so doing, have not required the State to prove that an arrest was lawful as a prerequisite to proving that a person was not justified in using force against a LEO.<sup>5</sup>

Under current law, a person may lawfully resist an illegal arrest by a LEO *without* using force or violence, but may not resist, even an illegal arrest, by using force or violence.<sup>6</sup>

### **Self Defense**

Section [776.012, F.S.](#), outlines when a person is justified in using or threatening to use force in defense of self or others. In relevant part, a person may lawfully use force or violence when the person reasonably believes that such conduct is necessary to defend himself or herself or another against the other's imminent use of *unlawful force*.<sup>7</sup> Florida courts have interpreted this statute to permit a person to forcefully resist a LEO's *excessive force*.<sup>8</sup> Accordingly, Florida's Standard Criminal Jury Instructions for the justifiable use of deadly and non-deadly force provide:

- A person is not justified in using force or threatening to use force to resist an arrest by a LEO, or to resist a LEO who is *engaged in the execution of a legal duty*, if the LEO is acting in good faith and he or she is known, or reasonably appears, to be a LEO.
- However, if an officer uses *excessive force* to make an arrest, then a person is justified in the use or threatened use of reasonable force to defend himself, herself, or another, but only to the extent he or she reasonably believes such force or threat of force is necessary.<sup>9</sup>

### **Resisting a LEO with Violence**

Under [s. 843.01, F.S.](#), a person commits a third degree felony<sup>10</sup> if he or she willfully resists, obstructs, or opposes an officer or other specified personnel in the execution of legal process or in the *lawful execution of any legal duty*, by offering or doing violence to such person.

Florida's Standard Criminal Jury Instructions for resisting a LEO with violence<sup>11</sup> require a jury to find that an officer was *engaged in the lawful execution of a legal duty* or the execution of legal process, but clarify that:

- When a defendant claims the officer acted unlawfully, the court must provide a special instruction incorporating [s. 776.051\(1\), F.S.](#)
- When a defendant claims the LEO used *excessive force*, the court must provide a special instruction incorporating instructions 3.6(f), relating to the justifiable use or threatened use of deadly force, or 3.6(g), relating to the justifiable use or threatened use of non-deadly force.

<sup>3</sup> [S. 776.051\(1\), F.S.](#)

<sup>4</sup> [S. 776.051\(2\), F.S.](#)

<sup>5</sup> *Tillman v. State*, 934 So. 2d 1263, 1270 n. 4 (Fla. 2006) (superseded by statute on other grounds). The Legislature amended [s. 776.051, F.S.](#), after *Tillman* to make the prohibition against using force to resist a LEO apply to both arrest and nonarrest situations. Ch. 2008-67, Laws of Fla.

<sup>6</sup> See also *K.Y.E. v. State*, 557 So. 2d 956, 957 (Fla. 1st DCA 1990) (citations omitted).

<sup>7</sup> [S. 776.012\(1\), F.S.](#)

<sup>8</sup> *Jackson v. State*, 463 So. 2d 372, 374 (Fla. 5th DCA 1985).

<sup>9</sup> Fla. Std. Jury Instr. [3.6\(f\)](#) and [3.6\(g\)](#) (Crim).

<sup>10</sup> A third degree felony is punishable by up to five years in prison and a \$5,000 fine. [Ss. 775.082, F.S., 775.083, F.S., or 775.084, F.S.](#)

<sup>11</sup> Fla. Std. Jury Instr. [21.1](#) (Crim).

In sum, if a LEO's conduct is *technically unlawful*,<sup>12</sup> then a person may not resist that LEO with force, but if a LEO uses *excessive force*, then a person may be justified in resisting that LEO with force.

### Assault or Battery of a LEO

Section [784.07, F.S.](#), reclassifies<sup>13</sup> the offenses of assault or battery to the next highest penalty when such an offense is committed on a LEO or other specified personnel if he or she was *engaged in the lawful performance of his or her duties*.<sup>14</sup>

For purposes of determining whether a person commits assault or battery:

- An "assault" 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, punishable as a second degree misdemeanor.<sup>15</sup>
- A person commits a "battery" if he or she actually and intentionally touches or strikes another person against the will of the other, or intentionally causes bodily harm to another person, generally punishable as a first degree misdemeanor.<sup>16</sup>

### Murder of a Law Enforcement Officer or Other Specified Personnel

Under [s. 782.065, F.S.](#), a court must sentence a defendant to life imprisonment without eligibility for release if the victim was a LEO, part-time LEO, auxiliary LEO, correctional officer (CO), part-time CO, auxiliary CO, correctional probation officer (CPO), part-time CPO, or auxiliary CPO who was *engaged in the lawful performance of a legal duty*, and the defendant committed:

- First degree murder and a death sentence was not imposed;
- Second or third degree murder;
- Attempted first or second degree murder; or
- Attempted felony murder.

The trial judge must add the following elements to the jury instructions for the above murder offenses:

- The victim was a specified officer;
- The defendant knew that the victim was a specified officer; and
- The victim was *engaged in the lawful performance of a legal duty*.<sup>17</sup>

### Manslaughter

<sup>12</sup> Examples of technically unlawful or technically illegal conduct may include an arrest that a court later determines lacked probable cause, or a search that a court later determines lacked a sufficient warrant.

<sup>13</sup> Reclassification under [s. 784.07, F.S.](#), occurs as follows: a) in the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree; b) in the case of battery, from a misdemeanor of the first degree to a felony of the third degree; c) in the case of aggravated assault, from a felony of the third degree to a felony of the second degree, and any person convicted of aggravated assault upon a LEO shall be sentenced to a minimum term of imprisonment of three years; and d) in the case of aggravated battery, from a felony of the second degree to a felony of the first degree, and any person convicted of aggravated battery of a LEO shall be sentenced to a minimum term of imprisonment of five years.

<sup>14</sup> Fla. Std. Jury Instr. [8.10](#), [8.11](#), [8.12](#), and [8.13](#) (Crim).

<sup>15</sup> [S. 784.011, F.S.](#) A second degree misdemeanor is punishable by up to 60 days in county jail and a \$500 fine. [Ss. 775.082 and 775.083, F.S.](#)

<sup>16</sup> [S. 784.03, F.S.](#) A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. [Ss. 775.082 and 775.083, F.S.](#)

<sup>17</sup> See Fla. Std. Jury Instr. [7.2](#) (first degree murder), [7.3](#) (first degree felony murder), [7.4](#) (second degree murder), [7.5](#) (second degree felony murder), and [7.6](#) (third degree felony murder) (Crim). See also Fla. Std. Jury Instr. [7.13](#) (Crim), which clarifies that reclassification under [s. 782.065, F.S.](#), does not apply to manslaughter.

Under [s. 782.07, F.S.](#), manslaughter is the killing of a human being by the act, procurement, or culpable negligence<sup>18</sup> of another, without lawful justification. Generally, manslaughter is punishable as a second degree felony.<sup>19</sup>

However, under [s. 782.07\(4\), F.S.](#), manslaughter may be enhanced to a first degree felony<sup>20</sup> if a person causes the death, through culpable negligence, of a LEO or other specified personnel who is *performing duties that are within the course of his or her employment*.

Manslaughter of a LEO is not an offense for which a court must sentence a convicted defendant to life imprisonment without eligibility for release.

### [Offense Severity Ranking Chart](#)

Felony offenses which are subject to the Criminal Punishment Code<sup>21</sup> are listed in a single OSRC,<sup>22</sup> which uses 10 offense levels to rank felonies from least severe to most severe. Each felony offense listed in the OSRC is assigned a level according to the severity of the offense.<sup>23,24</sup> A person's primary offense, any other current offenses, and prior convictions are scored using the points designated for the offense severity level of each offense.<sup>25,26</sup> The final score calculation, following the scoresheet formula, determines the lowest permissible sentence that a trial court may impose, absent a valid reason for departure.<sup>27</sup>

### RECENT LEGISLATION:

YEAR	BILL #	HOUSE/SENATE SPONSOR(S)	OTHER INFORMATION
2025	<a href="#">SB 234</a> - Criminal Offenses Against Law Enforcement Officers and Other Personnel	Baker <i>Leek</i>	The bill passed the Senate, was passed by the House as amended, and died in Returning Messages.

<sup>18</sup> "Culpable negligence" is more than a failure to use ordinary care toward others. In order for negligence to be culpable, it must be gross and flagrant. Culpable negligence is a course of conduct showing reckless disregard of human life, or of the safety of persons exposed to its dangerous effects, or such an entire want of care as to raise a presumption of a conscious indifference to consequences, or which shows wantonness or recklessness, or a grossly careless disregard for the safety and welfare of the public, or such an indifference to the rights of others as is equivalent to an intentional violation of such rights. The negligent act or omission must have been committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendant must have known, or reasonably should have known, was likely to cause death or great bodily injury. Fla. Std. Jury Instr. [7.7\(a\)](#) (Crim).

<sup>19</sup> A second degree felony is punishable by up to 15 years in prison and a \$10,000 fine. [Ss. 775.082, F.S., 775.083, F.S., or 775.084, F.S.](#)

<sup>20</sup> A first degree felony is punishable by up to 30 years in prison and a \$10,000 fine. [Ss. 775.082, F.S., 775.083, F.S., or 775.084, F.S.](#)

<sup>21</sup> All felony offenses, with the exception of capital felonies, committed on or after October 1, 1998, are subject to the Criminal Punishment Code. [S. 921.002, F.S.](#)

<sup>22</sup> [S. 921.0022, F.S.](#)

<sup>23</sup> [S. 921.0022\(2\), F.S.](#)

<sup>24</sup> Felony offenses that are not listed in the OSRC default to statutorily assigned levels, as follows: an unlisted third-degree felony defaults to a level 1; an unlisted second-degree felony defaults to a level 4; an unlisted first-degree felony defaults to a level 7; an unlisted first-degree felony punishable by life defaults to a level 9; and an unlisted life felony defaults to a level 10. [S. 921.0023, F.S.](#)

<sup>25</sup> [Ss. 921.0022, F.S. and 921.0024, F.S.](#)

<sup>26</sup> A person may also accumulate points for factors such as victim injury points, community sanction violation points, and certain sentencing multipliers. [S. 921.0024\(1\), F.S.](#)

<sup>27</sup> If a person scores more than 44 points, the lowest permissible sentence is a specified term of months in state prison, determined by a formula. If a person scores 44 points or fewer, the court may impose a nonprison sanction, such as a county jail sentence, probation, or community control. [S. 921.0024\(2\), F.S.](#)

**OTHER RESOURCES:**

[Convicted Killer Sentenced to 30 Years for Manslaughter of Police Officer | Daytona Beach News-Journal](#)