

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.)

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

BILL: CS/CS/SB 436

INTRODUCER: Appropriations Committee on Criminal and Civil Justice, Criminal Justice Committee,
and Senator Leek

SUBJECT: Felony Battery

DATE: February 20, 2026 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vaughan</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 436 amends s. 784.03, F.S., to expand the list of qualifying prior offenses that allow for the reclassification of misdemeanor battery to a third degree felony. Specifically, the bill adds “*resisting an officer with violence*” under s. 843.01, F.S., to the list of prior convictions that may trigger felony reclassification.

The bill amends s. 775.082, F.S., to add battery on a law enforcement officer resulting in bodily injury to the list of qualifying offenses for prison releasee reoffender status.

The bill may have a positive significant impact (an increase of more than 25 prison beds) on the Department of Corrections. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2026.

II. Present Situation:

Battery

The offense of battery occurs when a person:

- Actually and intentionally touches or strikes another person against the will of the other; or

- Intentionally causes bodily harm to another person.¹

Battery is generally classified as a first degree misdemeanor.² However, if an individual has a prior conviction for battery, aggravated battery, or felony battery and commits any second or subsequent battery offense, they can be charged with a third degree felony.³

The intent required for battery under Florida law is established when a defendant either purposefully touches or strikes another person or engages in conduct knowing that such contact is substantially certain to occur. Courts have clarified that this intent may be inferred from the circumstances surrounding the act rather than requiring direct evidence of purpose. For example, in *Clark v. State*, the court held that battery may occur through the intentional touching or striking of an object so intimately connected to the person that it is regarded as an extension of the person, such as clothing or items held in hand.⁴ Later, in *Fey v. State*, the court expanded the definition of intentional touching or striking to include situations where the defendant knows that contact is substantially certain to result from their actions.⁵ Finally, *S.D. v. State* emphasized that intent to commit battery must be determined by circumstances surrounding the touching or striking of the victim.⁶

The Florida Bar's Florida Standard Criminal Jury Instructions for Battery, provides an instruction that to prove the crime of Battery, the State must prove the following beyond a reasonable doubt that:

- the Defendant actually and intentionally touched or struck the victim against his or her will; or
- the Defendant intentionally caused bodily harm to the victim.⁷

Assault or Battery on a Law Enforcement Officers or Other Specified Professional

An offense for assault, aggravated assault, battery, and aggravated battery is reclassified when a person is charged with intentionally committing any of these offenses against an officer or employee who is engaged in engaged in the lawful performance of his or her duties.⁸

Law enforcement officers and specified personnel are currently identified as any of the following:

- A law enforcement officer.
- A firefighter.
- An emergency medical care provider.
- A railroad special officer.
- A traffic accident investigation officer.

¹ Section 784.03, F.S.

² A first degree misdemeanor is punishable by not more than a year in county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

³ Section 784.03(2), F.S.

⁴ *Clark v. State*, 783 So. 2d 967 (Fla. 2001)

⁵ *Fey v. State*, 125 So. 3d 828 (Fla. 4th DCA 2013)

⁶ *S.D. v. State*, 882 So.2d 447 (Fla. 4th DCA 2004)

⁷ Florida Standard Jury Instruction 8.3

⁸ Section 784.07(2), F.S.

- 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.
- A public transit employee or agent.
- A utility worker is engaged in the lawful performance of his or her duties.⁹

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.
- In the case of aggravated battery, from a second degree felony to a first degree felony,¹⁰ and any person convicted of aggravated battery of a law enforcement officer is subject to a mandatory five-year minimum term of imprisonment.¹¹

Additionally, if an individual, during the commission of a battery of an officer, 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.¹²

Resisting Arrest

A person who knowingly and willfully resists, obstructs, or opposes specified officers by offering or doing violence to the officer, commits a third degree felony.¹³

Officers specified in s. 843.01, F.S., include any of the following:

⁹ Section 784.07, F.S.

¹⁰ A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

¹¹ Section 784.07(2)(a)-(d), F.S.

¹² 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.

¹³ Section 843.01, F.S.

- Law enforcement officer, correctional officer, correctional probation officer, part-time law enforcement officer, part-time correctional officer or auxiliary law enforcement officer.¹⁴
- 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.
- Personnel or representatives of the Department of Law Enforcement.
- Other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty.

The Florida Bar's Florida Standard Criminal Jury Instructions for Obstruction of Justice, resisting an officer with violence provides an instruction that to prove the crime of Resisting Officer with Violence, the State must prove all of the following elements beyond a reasonable doubt:

- The defendant knowingly and willfully resisted, obstructed or opposed the victim by offering to do violence or doing violence to the victim.
- At the time, the victim was engaged in the execution of legal process or lawful execution of a legal duty.
- At the time, the victim was an officer or a person legally authorized to execute process.
- At the time, the defendant knew the victim was an officer or a person legally authorized to execute process.¹⁵

“Offering” to do violence means threatening to do violence.

Florida courts have clarified the scope of intent in resisting and battery-related offenses through several decisions. In *Kirkland v. State*,¹⁶ the court held that verbal threats alone do not constitute “resisting with violence” when the defendant lacks the ability to carry out those threats, as in the case where the defendant was hogtied and physically incapable of acting on them. This illustrates that intent requires more than words, it must be coupled with the capacity to act. In *Frey v. State*,¹⁷ the Florida Supreme Court determined that resisting arrest with violence is not a specific intent crime, meaning the defense of voluntary intoxication does not apply; the offense only requires a general intent to resist, not a heightened mental state. Similarly, in *Wright v. State*¹⁸ (1998), the court recognized that a defendant charged with attempted battery on a law enforcement officer was entitled to a jury instruction on the justifiable use of non-deadly force, reinforcing that intent must be evaluated in light of the circumstances and available defenses. Together, these cases underscore that intent in these circumstances is determined by both the defendant's ability to act and the surrounding circumstances, rather than requiring proof of a specific purpose.

¹⁴ Section 943.10(1), (2), (3), (6), (7), (8), or (9), F.S.

¹⁵ Florida Standard Jury Instruction 21.1

¹⁶ *Kirkland v State*, 647 So. 2d.142 (Fla. 1994)

¹⁷ *Frey v State*, 708 So.2d 918 (Fla. 1998)

¹⁸ *Wright v State*, 705 So.2d 102 (Fla. 1998)

Sentencing

The Criminal Punishment Code¹⁹ (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).²⁰

The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony as follows:

- 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.
- Generally, 30 years in state prison for a first degree felony.²¹

Offense Severity Ranking Chart

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level defaults to the following parameters:

- A third degree felony is within offense level 1.
- A second degree felony is within offense level 4.
- A first degree felony is within offense level 7.
- A first degree punishable by life felony is within offense level 9.
- A life felony is within offense level 10.

A person who commits battery on a law enforcement officer is guilty of a third-degree felony. The offense is ranked as a Level 4 offense on the Criminal Punishment Code Offense Severity Ranking Chart. A third degree felony is punishable by up to five years in state prison, five years of probation, and a \$5,000 fine.²²

Resisting an officer with violence is classified as a third-degree felony and is ranked as a Level 5 offense on the Criminal Punishment Code Offense Severity Ranking Chart. A third degree felony is punishable by up to five years in state prison, five years of probation, and a \$5,000 fine.²³

¹⁹ Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

²⁰ Offenses are either ranked in the offense severity level ranking chart in section 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in section 921.0023, F.S.

²¹ Section 775.082, F.S. Fines may also be imposed, and those fines escalate based on the degree of the offense. section 775.083, 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.

²² Section 784.07, F.S.

²³ Section 843.01, F.S.

Enhancement

Florida law authorizes several sentence enhancement provisions for qualifying offenders, including Prison Releasee Reoffender, Habitual Felony Offender, and Violent Career Criminal designations.

Prison Releasee Reoffender

If the state attorney determines that a defendant is a prison releasee reoffender, the state attorney may seek to have the court sentence the defendant as a prison releasee reoffender. Upon proof from the state attorney that establishes by a preponderance of the evidence that a defendant is a prison releasee reoffender, such defendant is not eligible for sentencing under the sentencing guidelines and must be sentenced as follows:

- For a felony punishable by life,²⁴ by a term of imprisonment for life.
- For a first degree felony,²⁵ by a term of imprisonment of 30 years.
- For a second degree felony²⁶, by a term of imprisonment of 15 years.
- For a third degree felony,²⁷ by a term of imprisonment of 5 years.²⁸

A person sentenced as a prison releasee reoffender can be released only by expiration of sentence and is not be eligible for parole, control release, or any form of early release. A prison releasee reoffender must also serve 100 percent of the court-imposed sentence.²⁹

A “prison releasee reoffender” is a person who has committed or attempted to commit any of the following enumerated offenses within 3 years after being released from a prison sentence:³⁰

- Treason.
- Murder.
- Manslaughter.
- Sexual battery.
- Carjacking.
- Home-invasion robbery.
- Robbery.
- Arson.
- Kidnapping.
- Aggravated assault with deadly weapon.
- Aggravated battery.

²⁴ For example, a capital felony is generally punishable by death or life imprisonment, a life felony is generally punishable by life imprisonment or by a term of imprisonment not exceeding 40 years, and a first degree felony may be punishable by a term of years not exceeding life imprisonment when specifically provided by statute. Section 775.082, F.S.

²⁵ The maximum term of imprisonment for a first degree felony is generally 30 years imprisonment. Section 775.082, F.S.

²⁶ The maximum term of imprisonment for a second degree felony is 15 years imprisonment. Section 775.082, F.S.

²⁷ The maximum term of imprisonment for a third degree felony is 5 years imprisonment. Section 775.082, F.S.

²⁸ Section 775.082(9)(a)3., F.S.

²⁹ Section 775.082(9)(b), F.S. Section 775.082(9), F.S., does not prevent a court from imposing a greater sentence of incarceration as authorized by law, pursuant to s. 775.084, F.S., or any other provision of law. Section 775.082(9)(c), F.S.

³⁰ Section 775.082, F.S., states that Florida state or private correctional facility, a county detention facility following incarceration for an offense for which the sentence pronounced was a prison sentence, or a correctional institution of another state, the District of Columbia, the United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year.

- Aggravated stalking.
- Aircraft piracy.
- Unlawful throwing, placing, or discharging of a destructive device or bomb.
- Any felony that involves the use or threat of physical force or violence against an individual.
- Armed burglary.
- Burglary of a dwelling or an occupied structure.
- Any violation of s. 790.07, F.S. (felons in possession of firearms).
- Any violation of s. 800.04, F.S. (lewd or lascivious act in the presence of a child).
- Any violation of s. 827.03, F.S. (abuse, aggravated abuse and neglect of a child).
- Any violation of s. 827.071, F.S. (sexual performance by a child).
- Any violation of s. 847.013(5), F.S. (prohibited computer transmissions constituting lewd exhibition).³¹

Habitual Felony Offender

The Habitual Felony Offender (HFO) statute targets repeat felony offenders who demonstrate a pattern of recidivism, allowing courts to impose longer sentences to protect public safety while preserving judicial discretion. Under current law, an HFO is a defendant for whom the court may impose an extended term of imprisonment. The court may classify a person as a Habitual Felony Offender if it finds that:

- The defendant has two or more felony convictions (or other qualified offenses) in this state.³²
- The felony for which the defendant is to be sentenced was committed:
 - While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for a felony or other qualified offense; or
 - Within 5 years of the date of the conviction of the defendant's last prior felony or other qualified offense, or within 5 years of the defendant's release from a prison sentence, probation, community control, control release, conditional release, parole or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later.

The felony for which the defendant is to be sentenced, and one of the two prior felony convictions, is not a violation of s. 893.13, F.S., relating to the purchase or the possession of a controlled substance.

The defendant has not received a pardon for any felony or other qualified offense that is necessary for habitual felony offender designation.³³

If the State pursues the HFO designation and the court finds the criteria met, the court may impose an extended term of imprisonment and may sentence the habitual felony offender as follows:

- A life felony or a felony of the first degree, for life.

³¹ Section 775.082, F.S.

³² Section 775.084(1)(a), F.S., provides that any felony offense qualifies except violations of s. 893.13, F.S., relating to the purchase or possession of a controlled substance, which are expressly excluded.

³³ Section 775.084, F.S.

- A felony of the second degree, for a term of years not exceeding 30 years.
- A felony of the third degree, for a term of years not exceeding 10 years.

The court retains discretion to decline enhanced sentencing if it determines such punishment is not necessary for the protection of the public but must provide written reasons for doing so.

Violent Career Criminal

Violent career criminal (VCC) designation targets offenders with a demonstrated pattern of violent criminal behavior and prior incarceration, aiming to incapacitate individuals deemed high-risk for recidivism. A violent career criminal designation applies to defendants who meet all of the following criteria:

- The defendant has three or more prior adult convictions for qualifying offenses, which include:
 - Any forcible felony.³⁴
 - Aggravated stalking.³⁵
 - Aggravated child abuse.³⁶
 - Aggravated abuse of an elderly person or disabled adult.³⁷
 - Lewd or lascivious battery, molestation, conduct, or exhibition.³⁸
 - Escape.³⁹
 - Any felony violation of ch. 790, F.S., involving the use or possession of a firearm.
- The defendant has been incarcerated in a state or federal prison.
- The current felony offense must be one of the enumerated crimes and committed:
 - While serving a sentence or supervision for a prior enumerated felony, or
 - Within 5 years of the last prior conviction or release from incarceration/supervision for an enumerated felony.

In 2007, *State v. Hearn*, the Supreme Court, held that battery on law enforcement officer was not a “forcible felony” that could be used to enhance subsequent felony as violent career criminal.⁴⁰ “Forcible felony” is used in several sentence enhancement statutes, including the Prison Releasee Reoffender, Habitual Felony Offender, and the Violent Career Criminal designation. By excluding battery on a law enforcement officer from this category, the Court limited its use as a qualifying offense for these enhanced sentencing schemes.

³⁴ Section 776.08, F.S., “Forcible felony” means treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

³⁵ Section 784.048(3) and (4), F.S.

³⁶ Section 827.03(2)(a), F.S.

³⁷ Section 825.102(2), F.S.

³⁸ Section 800.04 or s. 847.0135(5), F.S.

³⁹ Section 944.40, F.S.

⁴⁰ *State v. Hearn*, 961 So.2d 211 (Fla. 2007)

Reclassification

Reclassifying an offense increases the degree of the offense. Typically, the maximum sentence for a criminal offense is determined by the degree of the misdemeanor or felony. The following are the maximum sentences associated with each degree:

- 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.
- Generally, thirty years in state prison for a first degree felony.⁴¹

III. Effect of Proposed Changes:

The bill amends s. 784.03, F.S., to expand the list of qualifying prior offenses that allow for the reclassification of misdemeanor battery to a third degree felony. Specifically, the bill adds “*resisting an officer with violence*” under s. 843.01, F.S., to the list of prior convictions that may trigger felony reclassification.

The bill amends s. 775.082, F.S., to add battery on a law enforcement officer resulting in bodily injury to the list of qualifying offenses for prison releasee reoffender status.

The bill takes effect July 1, 2026.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Art. VII, s. 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

⁴¹ 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.

E. Other Constitutional Issues:

None.

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 significant prison bed impact (an increase of more than 25 prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

- Per FDLE, in FY 24-25, there were 1,138 arrests for the 1st degree misdemeanor under s. 784.03, F.S., with 405 guilty/convicted charges and 70 adjudication withheld charges for those with a prior conviction or adjudication withheld under s. 843.01, F.S.
- Per DOC, the incarceration rate for this felony was between 11 percent and 15 percent over the last three fiscal years. This is higher than the incarceration rate for Level 1, 3rd degree felonies in general (9.7 percent in FY 24-25). However, even with the lowest incarceration rate, the number of offenders that would be incarcerated would be above the threshold for significance (25 offenders in a fiscal year).⁴²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 775.082 and 784.03 of the Florida Statutes.

This bill reenacts the following sections of Florida Statutes: 775.261, 900.05, 903.011, 907.041, 943.0584, 944.608, 944.609, and 944.705, F.S.

⁴² Office of Economic and Demographic Research, *SB 436- Felony Battery*, (on file with the Senate Committee on Criminal Justice).

IX. Additional Information:

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

CS/CS by Appropriations Committee on Criminal and Civil Justice on February 18, 2026

The committee substitute clarifies that the prison releasee reoffender qualifying prior offense is a battery committed on a law enforcement officer resulting in bodily injury.

CS by Criminal Justice on January 12, 2026:

The committee substitute adds felony battery resulting in bodily injury to the list of qualifying offenses for prison releasee reoffender status.

- B. **Amendments:**

None.