

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/CS/HB 57 Law Enforcement Explorers  
**SPONSOR(S):** Criminal & Civil Justice Policy Council; Public Safety & Domestic Security Policy Committee; Reed  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 508

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Public Safety & Domestic Security Policy Committee	8 Y, 0 N, As CS	Padgett	Kramer
2)	Criminal & Civil Justice Policy Council	12 Y, 0 N, As CS	Padgett	Havlicak
3)	Criminal & Civil Justice Appropriations Committee	7 Y, 0 N	McAuliffe	Davis
4)	Full Appropriations Council on General Government & Health Care			
5)				

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**SUMMARY ANALYSIS**

Currently, s. 784.07, F.S., reclassifies the felony or misdemeanor degree of assault and battery offenses committed against a law enforcement officer, firefighter, and other specified persons. This bill would add law enforcement explorers to the list of specified persons listed in this section.

The Law Enforcement Exploring program is sponsored by "Learning for Life," a group affiliated with the Boy Scouts of America. The program is open to persons 14 through 20 years old. Law enforcement explorers are given training in police protocol and assist sworn officers in performing duties in the field.

This will have the effect of increasing the maximum sentence that could be imposed for an assault or battery committed against a law enforcement explorer in the same manner as if the offense was committed against a law enforcement officer.

The Criminal Justice Impact Conference met on February 25, 2009, and determined the bill would have an insignificant prison bed impact.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Currently, s. 784.07, F.S., provides that when a person is charged with knowingly committing assault<sup>1</sup>, aggravated assault<sup>2</sup>, battery<sup>3</sup>, or aggravated battery<sup>4</sup> against a law enforcement officer, firefighter, emergency medical care provider, traffic accident investigation officer, traffic infraction enforcement officer, parking enforcement specialist, a security officer, or security officer employed by the board of trustees of a community college while the officer, firefighter or emergency medical care provider is engaged in the lawful performance of his or her duties the offense is reclassified as follows:

- In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.
- In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.
- In the case of an aggravated assault, from a felony of the third degree to a felony of the second degree.
- In the case of an aggravated battery, from a felony of the second degree to a felony of the first degree.

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 misdemeanor or felony. The maximum sentence for a second degree misdemeanor is

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<sup>1</sup> 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. Section 784.011, F.S.

<sup>2</sup> An aggravated assault is an assault with a deadly weapon without intent to kill or with an intent to commit a felony. Section 784.021, F.S.

<sup>3</sup> A 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. Section 784.03, F.S.

<sup>4</sup> An aggravated battery occurs when a person in committing a battery intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or uses a deadly weapon. Aggravated battery also occurs if 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, F.S.

sixty days incarceration; for a first degree misdemeanor is one year of incarceration; for a third degree felony is five years imprisonment; for a second degree felony is fifteen years of imprisonment and for a first degree felony is thirty years imprisonment.<sup>5</sup>

### Proposed Changes

CS/CS/HB 57 adds law enforcement explorers performing duties under the direction of a sworn officer to the list of officers and persons above. Therefore, an assault or battery committed against a law enforcement explorer in those circumstances will be reclassified one higher degree than it is currently classified. This will have the effect of increasing the maximum sentence that could be imposed for an assault or battery committed against a law enforcement explorer in the same manner as if the offense was committed against a law enforcement officer.

The Law Enforcement Exploring program is sponsored by "Learning for Life," a group affiliated with the Boy Scouts of America.<sup>6</sup> The program is open to persons 14 through 20 years old.<sup>7</sup> Law enforcement explorers are given training in police protocol and assist sworn officers in performing duties in the field such as crowd control.<sup>8</sup>

CS/CS/HB 57 defines the term "law enforcement explorer" to mean any person who is a current member of a law enforcement agency's explorer program and who is performing functions other than those required to be performed by sworn law enforcement officers on behalf of a law enforcement agency while under the direct physical supervision of a sworn officer of that agency and wearing a uniform that bears at least one patch that clearly identifies the law enforcement agency that he or she represents.

Since the bill refers to the person being a member of the "agency's explorer program" and the law enforcement explorers program is a specific organization with a defined list of members, the increased penalties would apparently apply only if the victim was an active member of that particular group.<sup>9</sup>

#### B. SECTION DIRECTORY:

Section 1: Amends s. 784.07, F.S., relating to assault or battery on law enforcement officers, firefighters, etc.

Section 2: Reenacts s. 921.0022, F.S., relating to the Criminal Punishment Code; offense severity ranking chart.

Section 3: Provides an effective date of October 1, 2009.

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

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

##### 1. Revenues:

None.

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<sup>5</sup> Section 775.082, F.S.

<sup>6</sup> <http://www.scouting.org/Media/AnnualReports/2007/131flsummary.aspx>

<sup>7</sup> <http://www.learning-for-life.org/exploring/index.html>

<sup>8</sup> Id.

<sup>9</sup> The term would apparently not include persons participating in police ride-alongs, persons "career shadowing" police officers, or persons participating in any other group affiliated with law enforcement agencies.

2. Expenditures:  
See fiscal comments.

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

1. Revenues:  
None.
2. Expenditures:  
See fiscal comments.

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

None.

**D. FISCAL COMMENTS:**

The Criminal Justice Impact Conference met on February 25, 2009, and determined the bill would have an insignificant prison bed impact.

### **III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:  
None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

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

On January 13, 2009, the Public Safety & Domestic Security Committee adopted an amendment that amends the bill as follows:

- changes the definition of law enforcement explorer to include members of a law enforcement explorer program, rather than a law enforcement explorer post.
- adds the term, "law enforcement explorers" to the list of persons protected by s. 784.07, F.S.

On March 17, 2009, the Criminal & Civil Justice Policy Council adopted an amendment to the bill that amends the definition of law enforcement explorer.