

By Senator Grimsley

26-00906-18

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1                   A bill to be entitled  
2       An act relating to assault or battery on health care  
3       providers; amending s. 784.07, F.S.; defining the term  
4       "health care provider"; providing for the  
5       reclassification of certain assault and battery  
6       offenses committed on health care providers; amending  
7       ss. 901.15 and 985.644, F.S.; conforming provisions to  
8       changes made by the act; reenacting ss.  
9       775.0877(1)(d), (e), (f), and (g), 794.056(1),  
10       921.0022(3)(d), 938.08, and 938.085, F.S., relating to  
11       criminal transmission of HIV, the Rape Crisis Program  
12       Trust Fund, the offense severity ranking chart of the  
13       Criminal Punishment Code, additional cost to fund  
14       programs in domestic violence, and additional cost to  
15       fund rape crisis centers, respectively, to incorporate  
16       the amendments made by the act in cross-references to  
17       amended provisions; providing an effective date.

18  
19   Be It Enacted by the Legislature of the State of Florida:

20  
21       Section 1. Paragraphs (c) through (f) of subsection (1) of  
22       section 784.07, Florida Statutes, are redesignated as paragraphs  
23       (d) through (g), respectively, a new paragraph (c) is added to  
24       that subsection, subsection (2) of that section is amended, and  
25       subsection (3) of that section is republished, to read:

26       784.07 Assault or battery of law enforcement officers,  
27       firefighters, emergency medical care providers, health care  
28       providers, public transit employees or agents, or other  
29       specified officers; reclassification of offenses; minimum

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30 sentences.-

31 (1) As used in this section, the term:

32 (c) "Health care provider" means a physician, a registered  
33 nurse, an employee, an agent, or a volunteer of a hospital, as  
34 defined in s. 395.002, or a nursing home facility, as defined in  
35 s. 400.021, who is employed by, under contract with, or  
36 otherwise authorized by such hospital or nursing home facility  
37 to perform duties directly associated with the care and  
38 treatment rendered by the hospital or nursing home facility.

39 (2) Whenever any person is charged with knowingly  
40 committing an assault or battery upon a law enforcement officer,  
41 a firefighter, an emergency medical care provider, a health care  
42 provider, a railroad special officer, a traffic accident  
43 investigation officer as described in s. 316.640, a nonsworn law  
44 enforcement agency employee who is certified as an agency  
45 inspector, a blood alcohol analyst, or a breath test operator  
46 while such employee is in uniform and engaged in processing,  
47 testing, evaluating, analyzing, or transporting a person who is  
48 detained or under arrest for DUI, a law enforcement explorer, a  
49 traffic infraction enforcement officer as described in s.  
50 316.640, a parking enforcement specialist as defined in s.  
51 316.640, a person licensed as a security officer as defined in  
52 s. 493.6101 and wearing a uniform that bears at least one patch  
53 or emblem that is visible at all times that clearly identifies  
54 the employing agency and that clearly identifies the person as a  
55 licensed security officer, or a security officer employed by the  
56 board of trustees of a community college, while the officer,  
57 firefighter, emergency medical care provider, health care  
58 provider, railroad special officer, traffic accident

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59 investigation officer, traffic infraction enforcement officer,  
60 inspector, analyst, operator, law enforcement explorer, parking  
61 enforcement specialist, public transit employee or agent, or  
62 security officer is engaged in the lawful performance of his or  
63 her duties, the offense for which the person is charged shall be  
64 reclassified as follows:

65 (a) In the case of assault, from a misdemeanor of the  
66 second degree to a misdemeanor of the first degree.

67 (b) In the case of battery, from a misdemeanor of the first  
68 degree to a felony of the third degree.

69 (c) In the case of aggravated assault, from a felony of the  
70 third degree to a felony of the second degree. Notwithstanding  
71 any other provision of law, any person convicted of aggravated  
72 assault upon a law enforcement officer shall be sentenced to a  
73 minimum term of imprisonment of 3 years.

74 (d) In the case of aggravated battery, from a felony of the  
75 second degree to a felony of the first degree. Notwithstanding  
76 any other provision of law, any person convicted of aggravated  
77 battery of a law enforcement officer shall be sentenced to a  
78 minimum term of imprisonment of 5 years.

79 (3) Any person who is convicted of a battery under  
80 paragraph (2)(b) and, during the commission of the offense, such  
81 person possessed:

82 (a) A "firearm" or "destructive device" as those terms are  
83 defined in s. 790.001, shall be sentenced to a minimum term of  
84 imprisonment of 3 years.

85 (b) A semiautomatic firearm and its high-capacity  
86 detachable box magazine, as defined in s. 775.087(3), or a  
87 machine gun as defined in s. 790.001, shall be sentenced to a

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88 minimum term of imprisonment of 8 years.

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90 Notwithstanding s. 948.01, adjudication of guilt or imposition  
91 of sentence shall not be suspended, deferred, or withheld, and  
92 the defendant is not eligible for statutory gain-time under s.  
93 944.275 or any form of discretionary early release, other than  
94 pardon or executive clemency, or conditional medical release  
95 under s. 947.149, prior to serving the minimum sentence.

96 Section 2. Subsection (15) of section 901.15, Florida  
97 Statutes, is amended to read:

98 901.15 When arrest by officer without warrant is lawful.—A  
99 law enforcement officer may arrest a person without a warrant  
100 when:

101 (15) There is probable cause to believe that the person has  
102 committed assault upon a law enforcement officer, a firefighter,  
103 an emergency medical care provider, a health care provider,  
104 public transit employees or agents, or other specified officers  
105 as set forth in s. 784.07 or has committed assault or battery  
106 upon any employee of a receiving facility as defined in s.  
107 394.455 who is engaged in the lawful performance of his or her  
108 duties.

109 Section 3. Paragraph (a) of subsection (3) of section  
110 985.644, Florida Statutes, is amended to read:

111 985.644 Departmental contracting powers; personnel  
112 standards and investigation.—

113 (3) (a) All employees of the department and all personnel of  
114 contract providers for any program for children, including all  
115 owners, operators, employees, persons who have access to  
116 confidential juvenile records, and volunteers, must complete:

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117           1. A level 2 employment screening pursuant to chapter 435  
118 before employment. The security background investigation  
119 conducted under this section must ensure that, in addition to  
120 the disqualifying offenses listed in s. 435.04, no person  
121 subject to the background screening provisions of this section  
122 has an arrest awaiting final disposition for, been found guilty  
123 of, regardless of adjudication, or entered a plea of nolo  
124 contendere or guilty to, or been adjudicated delinquent and the  
125 record has not been sealed or expunged for, any offense  
126 prohibited under the following provisions of state law or  
127 similar laws of another jurisdiction:

128           a. Section 784.07, relating to assault or battery of law  
129 enforcement officers, firefighters, emergency medical care  
130 providers, health care providers, public transit employees or  
131 agents, or other specified officers.

132           b. Section 817.568, relating to criminal use of personal  
133 identification information.

134           2. A national criminal records check by the Federal Bureau  
135 of Investigation every 5 years following the date of the  
136 person's employment.

137           Section 4. For the purpose of incorporating the amendment  
138 made by this act to section 784.07, Florida Statutes, in  
139 references thereto, paragraphs (d) through (g) of subsection (1)  
140 of section 775.0877, Florida Statutes, are reenacted to read:

141           775.0877 Criminal transmission of HIV; procedures;  
142 penalties.—

143           (1) In any case in which a person has been convicted of or  
144 has pled nolo contendere or guilty to, regardless of whether  
145 adjudication is withheld, any of the following offenses, or the

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146 attempt thereof, which offense or attempted offense involves the  
147 transmission of body fluids from one person to another:

148 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),  
149 relating to assault;

150 (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),  
151 relating to aggravated assault;

152 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),  
153 relating to battery;

154 (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),  
155 relating to aggravated battery;

156

157 the court shall order the offender to undergo HIV testing, to be  
158 performed under the direction of the Department of Health in  
159 accordance with s. 381.004, unless the offender has undergone  
160 HIV testing voluntarily or pursuant to procedures established in  
161 s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or  
162 rule providing for HIV testing of criminal offenders or inmates,  
163 subsequent to her or his arrest for an offense enumerated in  
164 paragraphs (a)-(n) for which she or he was convicted or to which  
165 she or he pled nolo contendere or guilty. The results of an HIV  
166 test performed on an offender pursuant to this subsection are  
167 not admissible in any criminal proceeding arising out of the  
168 alleged offense.

169 Section 5. For the purpose of incorporating the amendment  
170 made by this act to section 784.07, Florida Statutes, in a  
171 reference thereto, subsection (1) of section 794.056, Florida  
172 Statutes, is reenacted to read:

173 794.056 Rape Crisis Program Trust Fund.—

174 (1) The Rape Crisis Program Trust Fund is created within

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175 the Department of Health for the purpose of providing funds for  
 176 rape crisis centers in this state. Trust fund moneys shall be  
 177 used exclusively for the purpose of providing services for  
 178 victims of sexual assault. Funds credited to the trust fund  
 179 consist of those funds collected as an additional court  
 180 assessment in each case in which a defendant pleads guilty or  
 181 nolo contendere to, or is found guilty of, regardless of  
 182 adjudication, an offense provided in s. 775.21(6) and (10)(a),  
 183 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.  
 184 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.  
 185 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.  
 186 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;  
 187 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.  
 188 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.  
 189 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.  
 190 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.  
 191 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),  
 192 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust  
 193 fund also shall include revenues provided by law, moneys  
 194 appropriated by the Legislature, and grants from public or  
 195 private entities.

196 Section 6. For the purpose of incorporating the amendment  
 197 made by this act to section 784.07, Florida Statutes, in a  
 198 reference thereto, paragraph (d) of subsection (3) of section  
 199 921.0022, Florida Statutes, is reenacted to read:

200 921.0022 Criminal Punishment Code; offense severity ranking  
 201 chart.—

202 (3) OFFENSE SEVERITY RANKING CHART

203 (d) LEVEL 4

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Florida Statute	Felony Degree	Description
316.1935 (3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
499.0051 (1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
499.0051 (5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
517.07 (1)	3rd	Failure to register securities.
517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.



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784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
784.075	3rd	Battery on detention or commitment facility staff.
784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
784.081 (3)	3rd	Battery on specified official or employee.
784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
784.083 (3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
787.03 (1)	3rd	Interference with custody; wrongly takes minor from

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appointed guardian.

221

787.04 (2) 3rd Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

222

787.04 (3) 3rd Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.

223

787.07 3rd Human smuggling.

224

790.115 (1) 3rd Exhibiting firearm or weapon within 1,000 feet of a school.

225

790.115 (2) (b) 3rd Possessing electric weapon or device, destructive device, or other weapon on school property.

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790.115 (2) (c) 3rd Possessing firearm on school property.

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800.04 (7) (c) 3rd Lewd or lascivious exhibition; offender less than 18 years.

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229	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
230	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
231	810.06	3rd	Burglary; possession of tools.
232	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
233	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
234	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
235	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
236	817.505 (4) (a)	3rd	Patient brokering.

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237	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
238	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
239	817.625(2)(a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
240	817.625(2)(c)	3rd	Possess, sell, or deliver skimming device.
241	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
242	837.02(1)	3rd	Perjury in official proceedings.
243	837.021(1)	3rd	Make contradictory statements in official proceedings.
244	838.022	3rd	Official misconduct.
	839.13(2)(a)	3rd	Falsifying records of an

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individual in the care and  
custody of a state agency.

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839.13(2)(c) 3rd Falsifying records of the  
Department of Children and  
Families.

246

843.021 3rd Possession of a concealed  
handcuff key by a person in  
custody.

247

843.025 3rd Deprive law enforcement,  
correctional, or correctional  
probation officer of means of  
protection or communication.

248

843.15(1)(a) 3rd Failure to appear while on bail  
for felony (bond estreature or  
bond jumping).

249

847.0135(5)(c) 3rd Lewd or lascivious exhibition  
using computer; offender less  
than 18 years.

250

874.05(1)(a) 3rd Encouraging or recruiting  
another to join a criminal  
gang.

251

893.13(2)(a)1. 2nd Purchase of cocaine (or other

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s. 893.03(1) (a), (b), or (d),  
 (2) (a), (2) (b), or (2) (c) 4.  
 drugs).

252

914.14(2) 3rd Witnesses accepting bribes.

253

914.22(1) 3rd Force, threaten, etc., witness,  
 victim, or informant.

254

914.23(2) 3rd Retaliation against a witness,  
 victim, or informant, no bodily  
 injury.

255

918.12 3rd Tampering with jurors.

256

934.215 3rd Use of two-way communications  
 device to facilitate commission  
 of a crime.

257

258 Section 7. For the purpose of incorporating the amendment  
 259 made by this act to section 784.07, Florida Statutes, in a  
 260 reference thereto, section 938.08, Florida Statutes, is  
 261 reenacted to read:

262 938.08 Additional cost to fund programs in domestic  
 263 violence.—In addition to any sanction imposed for a violation of  
 264 s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045, s.  
 265 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s.  
 266 784.083, s. 784.085, s. 794.011, or for any offense of domestic  
 267 violence described in s. 741.28, the court shall impose a

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268 surcharge of \$201. Payment of the surcharge shall be a condition  
269 of probation, community control, or any other court-ordered  
270 supervision. The sum of \$85 of the surcharge shall be deposited  
271 into the Domestic Violence Trust Fund established in s. 741.01.  
272 The clerk of the court shall retain \$1 of each surcharge that  
273 the clerk of the court collects as a service charge of the  
274 clerk's office. The remainder of the surcharge shall be provided  
275 to the governing board of the county and must be used only to  
276 defray the costs of incarcerating persons sentenced under s.  
277 741.283 and provide additional training to law enforcement  
278 personnel in combating domestic violence.

279 Section 8. For the purpose of incorporating the amendment  
280 made by this act to section 784.07, Florida Statutes, in a  
281 reference thereto, section 938.085, Florida Statutes, is  
282 reenacted to read:

283 938.085 Additional cost to fund rape crisis centers.—In  
284 addition to any sanction imposed when a person pleads guilty or  
285 nolo contendere to, or is found guilty of, regardless of  
286 adjudication, a violation of s. 775.21(6) and (10) (a), (b), and  
287 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;  
288 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.  
289 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.  
290 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.  
291 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.  
292 796.07(2) (a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.  
293 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.  
294 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.  
295 847.0145; s. 943.0435(4) (c), (7), (8), (9) (a), (13), and  
296 (14) (c); or s. 985.701(1), the court shall impose a surcharge of

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297 \$151. Payment of the surcharge shall be a condition of  
298 probation, community control, or any other court-ordered  
299 supervision. The sum of \$150 of the surcharge shall be deposited  
300 into the Rape Crisis Program Trust Fund established within the  
301 Department of Health by chapter 2003-140, Laws of Florida. The  
302 clerk of the court shall retain \$1 of each surcharge that the  
303 clerk of the court collects as a service charge of the clerk's  
304 office.

305 Section 9. This act shall take effect October 1, 2018.