

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 Committee on Criminal Justice

BILL: SB 552

INTRODUCER: Senator Thurston

SUBJECT: Assault or Battery on Courtroom Personnel

DATE: March 29, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	Pre-meeting
2.			ACJ	
3.			AP	

I. Summary:

SB 552 provides that it is a third degree felony for a person to commit an assault or a battery on courtroom personnel who he or she knows or reasonably should know to be such a person and who is acting in the course of his or her duties, regardless of whether the assault or battery occurs on the premises of a courthouse or other judicial facility. Generally, simple assault is a second degree misdemeanor and simple battery is a first degree misdemeanor.

A person who commits a second or subsequent violation commits a third degree felony with a three-year mandatory minimum term of imprisonment.

The bill defines “courtroom personnel” as any person employed by or performing contractual services in a courthouse or other judicial facility in this state and whose work is directly related to a trial, hearing, grand jury proceeding, or other judicial proceeding. The term includes attorneys, court reporters, probation officers, judges, bailiffs, and clerks.

The Criminal Justice Impact Conference estimates that the bill will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds). See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2021.

II. Present Situation:

Violence Against Florida Court Personnel

“In 2019, ... [U.S.] marshals recorded 4,449 threats and inappropriate communications against judges and other protected persons, including federal prosecutors. That’s compared with only

926 in 2015. Such threats increased steadily for the next three years, peaking at 4,542 in 2018. Part of that increase is tied to doing a better job at watching for, and flagging, potential threats.”¹

Data is not collected by the Office of the State Courts Administrator on incidents of violence or threats of violence against Florida court personnel.² However, staff of the Judicial Assistants Association of Florida provided the comments of several judicial assistants who provided personal accounts of threats, harassment, or unsolicited and unwelcomed visitation.³

Staff of the Florida Public Defenders Association reported that violence or threats of violence against public defenders or assistant public defenders has occurred,⁴ though the number of such cases could not be provided.⁵ Staff of the Florida Prosecuting Attorneys Association surveyed state attorney offices. As of March 24, 2021, two-thirds of circuits reported approximately 44 cases within the last 5 years in which charges were filed. These cases involved state attorney personnel and other courtroom personnel.⁶

Assault and Aggravated Assault

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.⁷ Assault is generally a second degree misdemeanor.⁸ However, if a person commits assault using a deadly weapon without intent to kill or commits assault with the intent to commit a felony, the person commits aggravated assault, a third degree felony.⁹

Battery, Felony Battery, and Aggravated Battery

Battery is actually and intentionally touching or striking another person against the will of that person or intentionally causing bodily harm to another person.¹⁰ Battery is generally a first degree misdemeanor,¹¹ but is a third degree felony when the perpetrator has one or more prior

¹ Charles Toutant, *Attacks on Judges Can't Be Eliminated, But Vigilance Can Reduce the Number of Attacks, Experts Say* (July 23, 2020), New Jersey Law Journal, available at <https://www.law.com/njlawjournal/2020/07/23/attacks-on-judges-cant-be-eliminated-but-vigilance-can-reduce-the-number-of-attacks-experts-say/> (last visited March 24, 2021).

² E-mail received by staff of the Senate Committee on Criminal Justice from staff of the Office of the State Courts Administrator, dated Jan. 22, 2021 (on file with the Senate Committee on Criminal Justice).

³ Information received by staff of Senate Committee on Criminal Justice from staff of the Judicial Assistants Association of Florida (on file with the Senate Committee on Criminal Justice).

⁴ E-mail received by staff of Senate Committee on Criminal Justice from staff of the Florida Public Defenders Association, dated March 18, 2021 (on file with the Senate Committee on Criminal Justice).

⁵ E-mail received by staff of Senate Committee on Criminal Justice from staff of the Florida Prosecuting Attorneys Association, dated March 24, 2021 (on file with the Senate Committee on Criminal Justice).

⁶ E-mails to staff of the Senate Committee on Criminal Justice from staff of the Florida Prosecuting Attorneys Association, dated March 24, 2021 (on file with the Senate Committee on Criminal Justice).

⁷ Section 784.011(1), F.S.

⁸ Section 784.011(2), F.S. A second degree misdemeanor is punishable by up to 60 days in county jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

⁹ Section 784.021(1) and (2), F.S. A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

¹⁰ Section 784.03(1)(a), F.S.

¹¹ Section 784.03(1)(b), F.S. A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

convictions for battery, aggravated battery, or felony battery, and commits a subsequent battery.¹²

A person commits “felony battery,” a third degree felony, if the person actually and intentionally touches or strikes another person against the will of the other and causes great bodily harm, permanent disability, or permanent disfigurement to the victim.¹³

A person commits aggravated battery, a second degree felony, if the person, in committing battery: intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; uses a deadly weapon; or the person who was 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.¹⁴

Sentencing of Aggravated Assault and Aggravated Battery Upon Certain Florida Court Personnel

Section 775.0823(10) and (11), F.S., in part, prohibits suspending, deferring, or withholding adjudication of guilt or imposition of sentence for aggravated assault or aggravated battery committed against a state attorney, assistant state attorney, or justice or judge of a court described in Art. V of the State Constitution, if the offense arises out of or in the scope of the officer’s or official’s duty.¹⁵

III. Effect of Proposed Changes:

The bill provides that it is a third degree felony for a person to commit an assault or a battery on courtroom personnel who he or she knows or reasonably should know to be such a person and who is acting in the course of his or her duties, regardless of whether the assault or battery occurs on the premises of a courthouse or other judicial facility.

Generally, simple assault is a second degree misdemeanor and simple battery is a first degree misdemeanor. The third degree penalty for assault against courtroom personnel is two degrees above the general penalty for assault and is a more severe penalty than assault against a law enforcement officer, which is reclassified to a first degree misdemeanor under s. 784.07, F.S.

A person who commits a second or subsequent violation commits a third degree felony with a 3-year mandatory minimum term of imprisonment.

The bill defines “courtroom personnel” as any person employed by or performing contractual services in a courthouse or other judicial facility in this state and whose work is directly related to a trial, hearing, grand jury proceeding, or other judicial proceeding. The term includes attorneys, court reporters, probation officers, judges, bailiffs, and clerks. (See “Technical Deficiencies” section of this bill analysis.)

¹² Section 784.03(2), F.S.

¹³ Section 784.041(1) and (3), F.S.

¹⁴ Section 784.045(1) and (2), F.S. A second degree felony is punishable by up to 15 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

¹⁵ The statute also applies to an assault or battery upon a law enforcement officer or correctional officer.

The bill takes effect October 1, 2021.

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 Article 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.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC), which provides, the final, official estimate of the prison bed impact, if any, of legislation, estimates that the bill will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds).¹⁶

The Legislature’s Office of Economic and Demographic Research provided the following information relevant to the estimate:

¹⁶ *Criminal Justice Impact Conference* (Complete 2021 Conference Results), Office of Economic and Demographic Research, available at <http://edr.state.fl.us/content/conferences/criminaljusticeimpact/CJIC21.xls> (last visited March 24, 2021).

Level 4, 3rd degree felony exists for battery of law enforcement officers, firefighters, emergency medical providers, public transit employees, etc. Per [Department of Corrections or] DOC, in FY 18-19, the incarceration rate for this felony was 16.6% (mean sentence length = 26.1 months) and in FY 19-20 the incarceration rate was 15.0% (mean sentence length = 27.7 months). Per DOC, in FY 18-19, the incarceration rate for a Level 1, 3rd degree felony was 9.5% (mean sentence length = 22.2 months), and in FY 19-20 the incarceration rate was 8.1% (mean sentence length = 23.1 months).

It is not known how large the courtroom personnel victim pool is, nor is it known how many offenders would commit such an act a second or subsequent time, but CJIC heard bills with the same provisions in prior years and found them to have an insignificant impact due to low volume.¹⁷

VI. Technical Deficiencies:

Staff recommends that the bill sponsor consider removing reference to probation officers and bailiffs in the bill's definition of "courtroom personnel." Assault or battery upon probation officers and bailiffs is already covered under s. 784.07(2), F.S., which reclassifies the misdemeanor or felony degree of assault, aggravated assault, battery, and aggravated battery when a person knowingly commits any of these offenses upon a law enforcement officer or specified professional.¹⁸

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 784.079 of the Florida Statutes.

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.

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

¹⁷ SB 552 – Assault or Battery on Courtroom Personnel, Office of Economic and Demographic Research, available at <http://edr.state.fl.us/content/conferences/criminaljusticeimpact/SB552.pdf> (last visited March 24, 2021).

¹⁸ Both are covered in the definition of "law enforcement officer" in s. 784.07(1)(d), F.S. Bailiffs are deputy sheriffs. Information from staff of the Florida Sheriffs Association communicated telephonically to staff of the Senate Committee on Criminal Justice on Jan. 22, 2021.