

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 713 Battery Offenses

SPONSOR(S): Porras and others

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	16 Y, 1 N	Butcher	Hall
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Under s. 784.03, F.S., 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, a battery is punishable as a first degree misdemeanor. Under s. 784.041, F.S., a person commits felony battery if he or she actually and intentionally touches or strikes another person against the will of the other and causes great bodily harm, permanent disability, or permanent disfigurement. A felony battery is punishable as a third degree felony. Additionally, if a person who has a prior conviction for battery, aggravated battery, or felony battery commits a second or subsequent battery, the second or subsequent offense is punishable as a third degree felony.

Florida law also enhances other specific types of batteries to third degree felonies, based on the offender's conduct or the victim's characteristics, including, but not limited to:

- Battery by strangulation under s. 784.031, F.S.;
- Battery on a law enforcement officer or other specified personnel under s. 784.07(2)(b), F.S.;
- Battery of a facility employee by throwing, tossing, or expelling certain fluids or materials under s. 784.078, F.S.; and
- Battery on a person 65 years of age or older under s. 784.08(2)(c), F.S.

Additionally, under s. 784.085, F.S., a person 18 years of age or older commits a third degree felony if he or she knowingly causes or attempts to cause *a child* to come into contact with blood, seminal fluid, or urine or feces by throwing, tossing, projecting, or expelling such fluid or material. Section 784.085, F.S., defines a "child" as a person under 18 years of age.

HB 713 amends s. 784.085, F.S., to generally prohibit a person 18 years of age or older from knowingly causing or attempting to cause *a person* to come into contact with blood, seminal fluid, or urine or feces by throwing, tossing, or expelling such fluids or materials, regardless of the victim's age.

The bill may have a positive indeterminate impact on jail and prison beds by expanding the scope of the prohibition to apply when any person is a victim of the offense, rather than only when a child under 18 years of age is the victim, which may result in more jail and prison admissions.

The bill provides an effective date of October 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Battery

Generally, under s. 784.03, F.S., 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.

A battery is generally punishable as a first degree misdemeanor.¹

Under s. 784.041, F.S., a person commits a felony battery if he or she:

- Actually and intentionally touches or strikes another person against the will of the other; and
- Causes great bodily harm, permanent disability, or permanent disfigurement.

A felony battery is punishable as a third degree felony.²

Additionally, if a person who has a prior conviction for battery, aggravated battery, or felony battery commits a second or subsequent battery, the second or subsequent offense is punishable as a third degree felony.³

Florida law also enhances other specific types of batteries to third degree felonies, based on the offender's conduct or the victim's characteristics, including, but not limited to:

- Battery by strangulation under s. 784.031, F.S.;⁴
- Battery on a law enforcement officer or other specified personnel under s. 784.07(2)(b), F.S.;
- Battery of a facility employee by throwing, tossing, or expelling certain fluids or materials under s. 784.078, F.S.;⁵ and
- Battery on a person 65 years of age or older under s. 784.08(2)(c), F.S.

Battery of a Child by Throwing, Tossing, Projecting, or Expelling Certain Fluids or Materials

Under s. 784.085, F.S., a person 18 years of age or older commits a third degree felony if he or she knowingly causes or attempts to cause a *child* to come into contact with blood, seminal fluid, or urine or feces by throwing, tossing, projecting, or expelling such fluid or material.

Section 784.085, F.S., defines a child as a person under 18 years of age. Because a child is the only person who can be a victim under this section, the law does not cover an adult offender who knowingly causes or attempts to cause *another adult* to come into contact with blood, seminal fluid, or urine or feces by throwing, tossing, projecting, or expelling such fluid or material.

¹ 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.

² A third degree felony is punishable by up to five years in prison and a \$5,000 fine. Ss. 775.082, 775.083, or 775.084, F.S.

³ S. 784.03(2), F.S.

⁴ A person commits battery by strangulation if he or she knowingly and intentionally, against the will of another person, impedes the normal breathing or circulation of the blood of that person so as to create a risk of or cause great bodily harm by applying pressure on the throat or neck of the other person or by blocking the nose or mouth of the other person. S. 784.031, F.S.

⁵ A person commits battery of a facility employee throwing, tossing, or expelling certain fluids or materials if he or she:

- Is being detained in a facility;
- Has the intent to harass, annoy, threaten, or alarm a person in a facility whom he or she knows or reasonably should know to be an employee of such facility; and
- Causes or attempts to cause such employee to come into contact with blood, masticated food, regurgitated food, saliva, seminal fluid, or urine or feces, by throwing, tossing, or expelling such fluid or material.

The term "facility" means a state correctional institution defined in s. 944.02(8); a private correctional facility defined in s. 944.710 or under chapter 957; a county, municipal, or regional jail or other detention facility of local government under chapter 950 or chapter 951; or a secure facility operated and maintained by the Department of Corrections or the Department of Juvenile Justice. S. 784.078, F.S.

Criminal Punishment Code

Felony offenses which are subject to the Criminal Punishment Code⁶ are listed in a single offense severity ranking chart (OSRC),⁷ 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.^{8,9} 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.^{10,11} 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.¹²

A violation of s. 784.085, F.S., for battery of a child by throwing, tossing, projecting, or expelling certain fluids or materials is ranked as a Level 4 offense on the OSRC.

Effect of Proposed Changes

HB 713 amends s. 784.085, F.S., to generally prohibit a person 18 years of age or older from knowingly causing or attempting to cause *a person* to come into contact with blood, seminal fluid, or urine or feces by throwing, tossing, or expelling such fluids or materials, regardless of the victim's age.

Under the bill, battery by throwing, tossing, projecting, or expelling certain fluids or materials remains a Level 4 offense on the OSRC. As such, if a person with no criminal history commits the offense, he or she would not be eligible to be sentenced to state prison.

As in current law, the bill continues to require that a person be 18 years of age or older in order to commit the offense and to be subject to the enhanced battery penalty.

The bill provides an effective date of October 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 784.085, F.S., battery of a child by throwing, tossing, projecting, or expelling certain fluids or materials.

Section 2: Amends s. 921.0022, F.S., Criminal Punishment Code; offense severity ranking chart.

Section 3: Provides an effective date of October 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

⁶ 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.

⁷ S. 921.0022, F.S.

⁸ S. 921.0022(2), F.S.

⁹ 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.

¹⁰ Ss. 921.0022 and 921.0024, F.S.

¹¹ 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.

¹² 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.

None.

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 bill may have a positive indeterminate impact on jail and prison beds by expanding the scope of the prohibition to apply when any person is a victim of the offense, rather than only when a child under 18 years of age is the victim, which may result in more jail and prison admissions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES