

**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.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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**BILL:** CS/CS/SB 1386

**INTRODUCER:** Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee; and Senators Yarborough and Leek

**SUBJECT:** Assault or Battery on a Utility Worker

**DATE:** April 16, 2025

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Denson</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>Denson</u>	<u>Siples</u>	<u>FP</u>	<u>Favorable</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1386 amends s. 784.07, F.S., to reclassify offenses that occur when a person knowingly commits an assault or battery against a utility worker while such utility worker is engaged in work on critical infrastructure, as defined in s. 812.141(1), F.S.

A “utility worker,” as defined by the bill is a person who bears at least one patch, emblem, organizational identification, or other clear marking that is intended to be plainly visible, that identifies the employing or contracting utility, and that clearly identifies the person as a utility worker under contract with or employed by an entity that owns, operates, leases, or controls a plant, property, or facility for the generation, transmission, distribution, or furnishing to or for the public, of electricity, natural or manufactured gas or propane, water, wastewater, telephone, or communications service, including two or more utilities rendering joint service.

The bill may have a positive insignificant prison bed impact on the Department of Corrections. See Section V., Fiscal Impact Statement.

The bill takes effect on October 1, 2025.

## II. Present Situation:

### **Assault and Battery of Utility Workers**

There have been several reported instances of assault or battery against a utility officer in Florida over the past few years. One notable case occurred in October 2024, when a man from Hillsborough County was arrested for suspected aggravated assault. The man became frustrated when a road was partially blocked as utility crews worked to restore power in the area. In a fit of anger, he backed his vehicle into the utility pole and then threatened to shoot the utility workers who attempted to prevent him from fleeing the scene.<sup>1</sup> Another instance took place in February of 2025 involving a woman from Polk County who released her dogs on two utility workers who were investigating possible utility theft.<sup>2</sup>

### ***Assault and Aggravated Assault***

Section 784.011, F.S., provides that it is a second degree misdemeanor<sup>3</sup> to commit an assault, which 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 the other person that such violence is imminent.

The courts have established that a well-founded fear in another person is measured by the reasonable person standard. According to this standard, if the circumstances are such that they would typically induce fear in the mind of a reasonable person, then the victim may be found to be in fear.<sup>4</sup>

Section 784.021, F.S., provides that an aggravated assault is an assault:

- With a deadly weapon<sup>5</sup> without intent to kill; or
- With an intent to commit a felony.

Aggravated assault is a third degree felony<sup>6</sup> and is ranked a Level 6 offense in the Criminal Punishment Code offense severity level ranking chart.<sup>7</sup>

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<sup>1</sup> Hillsborough County Sheriff's Office Press Release, *Man Arrested After Threatening Utility Workers Restoring Power Post-hurricane*, available at: <https://www.teamhcsco.com/News/PressRelease/8eabd8cf-d2b7-4340-ab0a-9b6c96a5df54/24-220> (Last visited March 20, 2025).

<sup>2</sup> Law and Crime News, *Man Arrested After Threatening Utility Workers Restoring Power Post-hurricane*, available at: <https://lawandcrime.com/crime/released-her-dogs-at-them-florida-woman-allegedly-used-great-dane-to-attack-investigators-after-stealing-electricity/> (Last visited March 20, 2025).

<sup>3</sup> A second degree misdemeanor is punishable by not more than 60 days in county jail and a fine not exceeding \$500. Sections 775.082 and 775.083, F.S.

<sup>4</sup> *Brennan v Syfrett*, 369 So.3d 320 (Fla. 1st DCA 2023).

<sup>5</sup> When undefined in statute, Florida courts have defined a "deadly weapon" as an instrument that will likely cause death or great bodily harm when used in the ordinary and usual manner contemplated by its design or an object that is used or threatened to be used in a way likely to produce death or great bodily harm. *See Brown v. State*, 86 So.3d 569, 571 (Fla. 5th DCA 2012).

<sup>6</sup> A third degree felony is punishable by not more than five years in state prison and a fine not exceeding \$5,000. Sections 775.082(3)(e) and 775.083(1)(c), F.S.

<sup>7</sup> Section 921.0022(3)(f), F.S.

***Battery and Aggravated Battery***

Section 784.03, F.S., provides that 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.

Under this statute, battery is generally classified as a first degree misdemeanor.<sup>8</sup> 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.<sup>9</sup>

Section 784.045, F.S., provides that a person commits an aggravated battery who, in committing battery:

- Intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement;
- Uses a deadly weapon; or
- Knows or should have known that the victim of the battery was pregnant at the time of the offense.

Aggravated battery is a second degree felony and is ranked in Level 7 of the Criminal Punishment Code offense severity level ranking chart.<sup>10</sup>

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

Section 784.07(2), F.S., reclassifies the degree of an offense for assault, aggravated assault, battery, and aggravated battery 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.

Law enforcement officers and specified personnel are currently identified as:

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

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<sup>8</sup> 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(4)(a) and 775.083(1)(d), F.S.

<sup>9</sup> Section 784.03(2), F.S.

<sup>10</sup> Section 921.0022(3)(g), F.S. A second degree felony is punishable by not more than 15 years in state prison and a fine of up to \$10,000. Sections 775.082(3)(d) and 775.083(1)(b), F.S.

- 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; or
- A public transit employee or agent.

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; and
- In the case of aggravated battery, from a second degree felony to a first degree felony,<sup>11</sup> and any person convicted of aggravated battery of a law enforcement officer is subject to a mandatory five-year minimum term of imprisonment.<sup>12</sup>

Additionally, if an individual, during the commission of a battery subject to reclassification as a third degree felony, 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.<sup>13</sup>

Reclassifying an offense increases the maximum sentence for that 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:

- 60 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;
- 15 years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.<sup>14</sup>

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<sup>11</sup> 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(3)(b) and 775.083(1)(b), F.S.

<sup>12</sup> Section 784.07(2)(a)-(d), F.S.

<sup>13</sup> 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.

<sup>14</sup> 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.

### *Offenses Involving Critical Infrastructure*

Section 812.141(1), F.S. defines critical infrastructure as any linear asset or any of the following for which the owner or operator has employed measures designed to exclude unauthorized persons, including, but not limited to, fences, barriers, guard posts, or signs prohibiting trespass:

- An electric power generation, transmission, or distribution facility, or a substation, a switching station, or an electrical control center.
- A chemical or rubber manufacturing or storage facility.
- A mining facility.
- A natural gas or compressed gas compressor station or storage facility.
- A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas.
- A liquid natural gas or propane gas terminal or storage facility with a capacity of 4,000 gallons or more.
- A wireless or wired communications facility, including the tower, antennae, support structures, and all associated ground-based equipment.
- A water intake structure, water treatment facility, wastewater treatment plant, pump station, or lift station.
- A seaport.<sup>15</sup>
- A railroad switching yard, trucking terminal, or other freight transportation facility.
- An airport.<sup>16</sup>
- A spaceport territory.<sup>17</sup>
- A transmission facility used by a federally licensed radio or television station.
- A military base or military facility conducting research and development of military weapons systems, subsystems, components, or parts.
- A civilian defense industrial base conducting research and development of military weapons systems, subsystems, components, or parts.
- A dam<sup>18</sup> or other water control structures such as locks, floodgates, or dikes that are designed to maintain or control the level of navigable waterways.

### **III. Effect of Proposed Changes:**

The bill amends s. 784.07, F.S., to reclassify offenses that occur when a person knowingly commits an assault or battery against a utility worker while such utility worker is engaged in work on critical infrastructure, as defined in s. 812.141(1), F.S.

The offenses are reclassified 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
- In the case of aggravated battery, from a second degree felony to a first degree felony.

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<sup>15</sup> Section 311.09, F.S.

<sup>16</sup> Section 330.27, F.S.

<sup>17</sup> Section 331.303, F.S.

<sup>18</sup> Section 373.403(1)

The purpose of reclassifying these offenses is to increase the maximum sentence that may be imposed for an offense against a utility worker.

A “utility worker,” as defined by the bill is a person who bears at least one patch, emblem, organizational identification, or other clear marking that is intended to be plainly visible, that identifies the employing or contracting utility, and that clearly identifies the person as a utility worker under contract with or employed by an entity that owns, operates, leases, or controls a plant, property, or facility for the generation, transmission, distribution, or furnishing to or for the public, of electricity, natural or manufactured gas or propane, water, wastewater, telephone, or communications service, including two or more utilities rendering joint service.

The bill amends ss. 901.15, 943.051, 985.11, and 985.644, F.S., to make necessary conforming changes.

The bill takes effect on October 1, 2025.

#### **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.

##### **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 provided a preliminary estimate that the bill may have a positive insignificant prison bed impact (an increase of 10 or fewer beds) on the Department of Corrections (DOC). The EDR provides that while large numbers of offenders with specified assault and battery offenses come to prison each year with these offenses as a primary offense (389 new commitments in FY 23-24), it is unknown how large the utility worker victim pool is. The CJIC has heard bills with the same provisions in prior years and has found them to have an insignificant impact due to low volume.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 784.07, 901.15, 943.051, 985.11 and 985.644.

**IX. Additional Information:****A. Committee Substitute – Statement of 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 April 10, 2025:**

The committee substitute revises the definition of utility worker, narrows the reclassification of assault or battery on a utility worker to only apply when a utility worker is engaged in work on critical infrastructure, and removes the offense severity ranking chart.

**CS by Criminal Justice on March 25, 2025:**

The committee substitute expands the definition of utility worker to include propane employees.

**B. Amendments:**

None.