

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 825 Assault or Battery on Hospital Personnel

**SPONSOR(S):** Berfield and others

**TIED BILLS:** IDEN./SIM. BILLS: SB 568

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	17 Y, 0 N	Loyed	Hall
2) Justice Appropriations Subcommittee	12 Y, 0 N	Smith	Keith
3) Judiciary Committee		Loyed	Kramer

### SUMMARY ANALYSIS

Under s. 784.07, F.S., whenever a person is charged with knowingly committing an assault or battery upon a law enforcement officer, firefighter, emergency medical care provider, or other specified officer or employee while such officer or employee is engaged in the lawful performance of his or her duties, the offense for which the person is charged is 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.
- In the case of aggravated battery, from a second degree felony to a first degree felony.

Section 784.07, F.S., specifies an assault or battery offense is reclassified when committed upon an emergency medical care provider. An emergency medical provider is defined as an ambulance driver, emergency medical technician, paramedic, registered nurse, physician or medical director as defined in s. 401.23, F.S., or any person authorized by an emergency medical service licensed under ch. 401, F.S., who is engaged in the lawful performance of his or her duties. The term also includes physicians, employees, agents, or volunteers of hospitals as defined under ch. 395, F.S., who are employed, under contract, or otherwise authorized by a hospital to perform duties directly associated with the care and treatment rendered by the hospital's emergency department or the security for such department.

Currently, an assault or battery offense committed upon other hospital personnel is not subject to reclassification.

HB 825 amends s. 784.07, F.S., to include hospital personnel as a specified type of officer or employee for which an assault or battery offense is reclassified to the next highest level when such an offense is committed against hospital personnel while they are engaged in the lawful performance of a duty.

The bill defines "hospital personnel" as a health care practitioner as defined in s. 456.001, F.S., an employee, an agent, or a volunteer who is employed, under contract, or otherwise authorized by a hospital, as defined in s. 395.002, F.S., to perform duties directly associated with the care and treatment rendered by any department of a hospital or with the security thereof.

The bill may have a positive indeterminate impact on jail and prison beds by increasing the specified personnel to which a reclassification of an assault or battery offense may apply. To the extent that penalties for assault and battery offenses are reclassified under the bill, offenders who commit such an offense will be subject to longer jail or prison sentences.

The bill provides an effective date of October 1, 2023.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Reclassification of Assault and Battery Offenses

Section 784.07, F.S., reclassifies the misdemeanor or felony degree of assault,<sup>1</sup> aggravated assault,<sup>2</sup> battery,<sup>3</sup> and aggravated battery<sup>4</sup> when a person is charged with knowingly committing any such offense upon an officer or employee described as follows while that officer or employee is engaged in the lawful performance of his or her duties:

- 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;
- 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; and
- A security officer employed by the board of trustees of a community college.

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 three-year mandatory minimum term of imprisonment.<sup>5</sup>
- In the case of aggravated battery, from a second degree felony to a first degree felony, and any person convicted of aggravated battery of a law enforcement officer is subject to a five-year mandatory minimum term of imprisonment.<sup>6</sup>

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<sup>1</sup> Assault, which is a second degree misdemeanor, 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. S. 784.011(1) and (2), F.S.

<sup>2</sup> Aggravated assault, which is a third degree felony, is the commission of an assault using a deadly weapon without intent to kill or the commission of an assault with the intent to commit a felony. S. 784.021(1) and (2), F.S.

<sup>3</sup> Simple battery, which is a first degree misdemeanor, is actually and intentionally touching or striking another person against the will of that person or intentionally causing bodily harm to another person. S. 784.03(1)(a), F.S.

<sup>4</sup> A person commits aggravated battery, a second degree felony, if the person, in committing a 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. S. 784.045(1) and (2), F.S.

<sup>5</sup> S. 784.07(2)(c), F.S.

<sup>6</sup> S. 784.07(2)(d), F.S.

Further, if the person, 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>7</sup>

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 the misdemeanor or felony as follows:

- Sixty 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.
- Fifteen years in state prison for a second degree felony.
- Generally, 30 years in state prison for a first degree felony.<sup>8</sup>

### Emergency Medical Providers

Section 784.07, F.S., specifies an offense of assault or battery is reclassified when committed upon an emergency medical care provider. An emergency medical provider is defined as an ambulance driver, emergency medical technician, paramedic, registered nurse, physicians or medical director as defined in s. 401.23, F.S., or any person authorized by an emergency medical service licensed under ch. 401, F.S., who is engaged in the performance of his or her duties. The term also includes physicians, employees, agents, or volunteers of hospitals as defined under ch. 395, F.S., who are employed, under contract, or otherwise authorized by a hospital to perform duties directly associated with the care and treatment rendered by the hospital's emergency department or the security for such department.

However, an assault or battery offense committed upon other hospital personnel is not subject to reclassification.

### **Effect of Proposed Changes**

HB 825 amends s. 784.07, F.S., to include hospital personnel as a specified type of officer or employee for which an assault or battery offense may be reclassified to the next highest penalty when such offense is committed against hospital personnel while they are engaged in the lawful performance of a duty.

The bill defines "hospital personnel" as a health care practitioner as defined in s. 456.001, F.S., an employee, an agent, or a volunteer who is employed, under contract, or otherwise authorized by a hospital, as defined in s. 395.002, F.S., to perform duties directly associated with the care and treatment rendered by any department of a hospital or with the security thereof.

Under the bill, the reclassification of the degree of an offense committed on hospital personnel 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.
- In the case of aggravated battery, from a second degree felony to a first degree felony.

The bill provides an effective date of October 1, 2023.

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<sup>7</sup> S. 784.07(3), F.S.

<sup>8</sup> S. 775.082, F.S.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 784.07, F.S., relating to assault or battery on specified personnel.

**Section 2:** Provides an effective date of October 1, 2023.

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

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

1. Revenues:

None.

2. Expenditures:

The bill may have a positive indeterminate impact on prison beds to the extent the bill results in penalties for more assault and battery offenses being reclassified, thus making an offender subject to a longer prison sentence.

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

1. Revenues:

None.

2. Expenditures:

The bill may have a positive indeterminate impact on jail beds to the extent the bill results in penalties for more assault and battery offenses being reclassified, thus making an offender subject to a longer jail sentence.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**