

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 339 Federal Law Enforcement Officers
SPONSOR(S): Scionti and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 614

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--------------------------------------------------------------|-------------------------|---------------|-----------------|
| 1) <u>Committee on Homeland Security & Public Safety</u> | <u>7 Y, 0 N</u> | <u>Newton</u> | <u>Kramer</u> |
| 2) <u>Safety & Security Council</u> | <u>15 Y, 0 N, As CS</u> | <u>Kramer</u> | <u>Havlicak</u> |
| 3) _____ | _____ | _____ | _____ |
| 4) _____ | _____ | _____ | _____ |
| 5) _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

Currently section 784.07, F.S. reclassifies the felony or misdemeanor degree of assault or battery offenses committed on such persons as firefighters, emergency medical care providers, law enforcement officers, and other specified persons. Further, this section requires that a person convicted of aggravated battery of a law enforcement officer must be sentenced to a minimum term of imprisonment of five years. A person convicted of aggravated assault upon a law enforcement officer must be sentenced to a minimum term of imprisonment of three years. HB 339 redefines the term "law enforcement officer" under s. 784.07, F.S. to include federal law enforcement officers for the purpose of enhancing the maximum penalty which can be imposed for the offenses of assault or battery of a federal law enforcement officer. Further, the bill will require the imposition of a five year minimum mandatory sentence for aggravated battery of a federal law enforcement officer and the imposition of a three year minimum mandatory sentence for the offense of aggravated assault of a federal law enforcement officer.

Section 843.08, F.S. makes it a third degree felony to falsely assume or pretend to be a deputy sheriff, police officer, correctional probation officer or one of a list of other officers. This is known as falsely personating an officer. The bill expands this provision to include a person who is falsely personating a federal law enforcement officer.

The bill takes effect on July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility: HB 339 will have the effect of increasing the maximum sentence which can be imposed for an assault or battery offense committed against a federal law enforcement officer.

B. EFFECT OF PROPOSED CHANGES:

Battery or assault: Currently section 784.07, F.S., provides that when a person is charged with knowingly committing assault¹, aggravated assault², battery³, or aggravated battery⁴ against a law enforcement officer⁵, firefighter⁶, emergency medical care provider⁷, traffic accident investigation officer, traffic infraction enforcement officer,⁸ or other specified person while the person is engaged in the lawful performance of his or her duties, the assault or battery offense is classified as follows:

- In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.
- In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.
- In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.
- In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for the offense. The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony offense. The maximum sentence for a second degree misdemeanor is sixty days incarceration; for a first degree misdemeanor is one year of incarceration; for a third degree felony is five years imprisonment; for a second degree felony is fifteen years

¹ An 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. s. 784.011, F.S.

² An aggravated assault is an assault with a deadly weapon without intent to kill or with intent to commit a felony. s. 784.021, F.S.

³ A 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. s. 784.03, F.S.

⁴ An aggravated battery occurs when a person in committing battery intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or uses a deadly weapon. Aggravated battery also occurs if 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, F.S.

⁵ "Law enforcement officer" includes a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10 and any county probation officer; employee or agent of the Department of Corrections who supervises or provides services to inmates; officer of the Parole Commission; and law enforcement personnel of the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, or the Department of Law Enforcement. s. 784.07(1)(a), F.S.

⁶ "Firefighter" means any person employed by any public employer of this state whose duty it is to extinguish fires; to protect life or property; or to enforce municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires. s. 784.07(1)(b), F.S.

⁷ "Emergency medical care provider" means an ambulance driver, emergency medical technician, paramedic, registered nurse, physician as defined in s. 401.23, medical director as defined in s. 401.23, or any person authorized by an emergency medical service licensed under chapter 401 who is engaged in the performance of his or her duties. The term "emergency medical care provider" also includes physicians, employees, agents, or volunteers of hospitals as defined in chapter 395, 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 thereof. s. 784.07(1)(c), F.S.

⁸ S. 316.640, F.S.

imprisonment and for a first degree felony is thirty years imprisonment⁹. Further, this section requires that a person convicted of aggravated battery of a law enforcement officer must be sentenced to a minimum term of imprisonment of five years. A person convicted of aggravated assault upon a law enforcement officer must be sentenced to a minimum term of imprisonment of three years.

HB 339 adds the term "federal law enforcement officer" as defined in s. 901.1505, F.S.¹⁰ to the definition of law enforcement officer included in s. 784.07 (1) F.S. This will have the effect of increasing the maximum sentence that can be imposed for assault or battery offense committed against a federal law enforcement officer as described above. Further, the bill will require the imposition of a five year minimum mandatory sentence for aggravated battery of a federal law enforcement officer and the imposition of a three year minimum mandatory sentence for the offense of aggravated assault of a federal law enforcement officer.

Falsely personating officer: Section 843.08, F.S. provides that a person who falsely assumes or pretends to be a deputy sheriff, police officer, correctional probation officer or one of a list of other officers and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a third degree felony. This is known as "falsely personating" an officer. If the person falsely personates an officer during the court of the commission of a felony, the offense is a second degree felony. If the commission of the felony results in the death or personal injury of another human being, the person commits a first degree felony. HB 339 expands the offense to include falsely personating a federal law enforcement officer as defined in s. 901.1505, F.S.

C. SECTION DIRECTORY:

Section 1: Amends s. 784.07 F.S., relating to assault or battery on law enforcement officers and other specified officers.

Section 2. Amends s. 843.08, F.S., relating to falsely personating officer.

Section 3 through Section 7: Reenacts: s. 435.04(3) (a), F.S. relating to level 2 screening standards; s, 901.15 (15), F.S., relating to arrest without a warrant; s. 921.0022(3) (d), (f), and (g), F.S., relating to the offense severity ranking chart; s. 943.051(3) (b), F.S. relating to criminal justice information; s. 985.11 (1) (b), F.S. relating to fingerprinting and photographing of a minor to incorporate the amendment made by this act to section 784.07, F.S. by reference.

Section 8: Provides an effected date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

⁹ s. 775.082, F.S.

¹⁰ 901.1505 F.S. defines the term "federal law enforcement officer" to mean "a person who is employed by the Federal Government as a full-time law enforcement officer as defined by applicable provisions of the United States Code, who is empowered to effect an arrest for violations of the United States Code, who is authorized to carry firearms in the performance of her or his duties, and who has received law enforcement training equivalent to that prescribed in s. 943.13."

The Criminal Justice Impact Conference met on February 16th and determined that this bill will have an insignificant prison bed impact on the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

The bill sponsor did not submit a statement regarding the original bill. The council chair chose not to submit a sponsor regarding the council substitute.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

The Safety & Security Council adopted an amendment which related to falsely personating a federal law enforcement officer.