

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, STATE OF FLORIDA
CRIMINAL FELONY DIVISION

STATE OF FLORIDA,
Plaintiff,

Case No: CRC14-000216-CFAES

vs.

Division: 1

CURTIS JUDSON REEVES,
Defendant.

_____ /

DEFENSE REQUEST FOR JUDICIAL NOTICE

COMES NOW, Defendant, CURTIS JUDSON REEVES, by and through undersigned counsel, hereby requests, pursuant to Section 90.201(1), Florida Statutes (2021), the Court take judicial notice of:

Assault or battery on persons 65 years of age or older; reclassification of offenses; minimum sentence, Chapter 784 (Assault; Battery; Culpable Negligence), Section 784.08, Florida Statutes, Laws 2002, c. 2002-208, § 1, eff. April 29, 2002.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic delivery to the Office of the State Attorney for the Sixth Judicial Circuit, c/o Glenn Martin, Esq. at glennmartin@flsa6.gov on this 4th day of February 2022.

/s/ Richard Escobar

Richard Escobar, Esquire
Escobar and Associates, P.A.
2917 W. Kennedy Blvd., Suite 100
Tampa, Florida 33609
Tel: (813) 875-5100
Fax: (813) 877-6590
rescobar@escobarlaw.com
Florida Bar No. 375179
Attorney for Defendant

2002 Fla. Sess. Law Serv. Ch. 2002-208 (H.B. 1393) (WEST)

FLORIDA 2002 SESSION LAW SERVICE

Seventeenth Legislature, Second Regular Session

Additions are indicated by <<+ Text +>>; deletions by

<<- Text ->>. Changes in tables are made but not highlighted.

Chapter 2002-208

H.B. No. 1393

CRIMINAL PROCEDURE—SENTENCING GUIDELINES—AGED PERSONS

An act relating to sentencing; reenacting sections 5 and 12 of chapter 99-188, Laws of Florida; amending s. 784.08, F.S.; providing minimum terms of imprisonment for persons convicted of aggravated assault or aggravated battery of a person 65 years of age or older; requiring the Governor to place public service announcements explaining the provisions of this act; providing for retroactive application of the reenacted provisions; providing an effective date.

WHEREAS, in 1999 the Legislature adopted chapter 99-188, Laws of Florida, with the primary motivation of reducing crime in this state and to protect the public from violent criminals through the adoption of enhanced and mandatory sentences for violent and repeat offenders, for persons involved in drug-related crimes, committing aggravated battery or aggravated assault on law enforcement personnel or the elderly, and for persons committing criminal acts while in prison or while having escaped from prison, and

WHEREAS, a three-judge panel of the District Court of Appeal of Florida, Second District, has issued a nonfinal opinion declaring chapter 99-188, Laws of Florida, unconstitutional as a violation of the requirement in Section 6, Article III of the Florida Constitution that “every law shall embrace but one subject and matter properly connected therewith...”, finding that the addition of two minor provisions relating to burglary of railroad vehicles and the provision of sentencing documents relative to aliens to the Immigration and Naturalization Service were not matters properly connected with the subject of the 1999 act, which was “sentencing,” and

WHEREAS, the nonfinal ruling on this matter was issued while the Legislature was in session, and

WHEREAS, the Attorney General, on behalf of the people of the State of Florida, has indicated a determination to seek rehearing, en banc, of this matter, and

WHEREAS, a final opinion by the District Court of Appeal of Florida, Second District, declaring chapter 99-188, Laws of Florida, to have been in violation of Section 6, Article III of the Florida Constitution would be subject to appeal by the state to the Florida Supreme Court, and

WHEREAS, in its nonfinal ruling, the panel of the District Court of Appeal of Florida, Second District, has certified its decision as passing on two questions of great public importance with respect to chapter 99-188, Laws of Florida, further invoking the jurisdiction of the Florida Supreme Court, and

WHEREAS, the final resolution as to the constitutionality of chapter 99-188, Laws of Florida, remains uncertain, and is unlikely to be finally determined by the judicial system, while the 2002 legislative session is in progress, and

WHEREAS, the legislative action to correct the effect of this ruling forthwith is essential to public safety and cannot await a final resolution by the District Court of Appeal and the Florida Supreme Court, and

WHEREAS, the Legislature, only out of an abundance of caution due to tentative posture of the law while it awaits final resolution by the District Court of Appeal and the Florida Supreme Court, has prepared five separate bills to reenact selected provisions of chapter 99–188, Laws of Florida, all of which relate to the single general issue of sentencing in criminal cases, and

WHEREAS, the Legislature does not intend the division of these bills relating to sentencing as any kind of legislative acknowledgement that said bills could not or should not be joined together in a single bill in full compliance with Section 6, Article III of the Florida Constitution, NOW THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Sections 5 and 12 of chapter 99–188, Laws of Florida, are reenacted to read:

Section 5. Subsection (1) of section 784.08, Florida Statutes, is amended to read:

<< FL ST § 784.08 >>

784.08. Assault or battery on persons 65 years of age or older; reclassification of offenses; minimum sentence

(1) A person who is convicted of an aggravated assault or aggravated battery upon a person 65 years of age or older shall be sentenced <<+to a minimum term of imprisonment of 3 years+>> <<-pursuant to the Criminal Punishment Code->> and fined not more than \$10,000 and shall also be ordered by the sentencing judge to make restitution to the victim of such offense and to perform up to 500 hours of community service work. Restitution and community service work shall be in addition to any fine or sentence which may be imposed and shall not be in lieu thereof.

Section 12. <<+In order to inform the public and to deter and prevent crime in the state, the Executive Office of the Governor shall place public service announcements in visible local media throughout the state explaining the penalties provided in this act.+>>

Section 2. <<+The provisions reenacted by this act shall be applied retroactively to July 1, 1999, or as soon thereafter as the Constitution of the State of Florida and the Constitution of the United States may permit.+>>

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor April 29, 2002.

Filed in Office Secretary of State April 29, 2002.

FL LEGIS 2002-208



KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Prior Version Recognized as Unconstitutional by *Almenares v. State*, Fla.App. 5 Dist., Sep. 17, 2004

West's Florida Statutes Annotated
Title XLVI. Crimes (Chapters 775-899)
Chapter 784. Assault; Battery; Culpable Negligence (Refs & Annos)

West's F.S.A. § 784.08

784.08. Assault or battery on persons 65 years of age or older; reclassification of offenses; minimum sentence

Effective: April 29, 2002

Currentness

(1) A person who is convicted of an aggravated assault or aggravated battery upon a person 65 years of age or older shall be sentenced to a minimum term of imprisonment of 3 years and fined not more than \$10,000 and shall also be ordered by the sentencing judge to make restitution to the victim of such offense and to perform up to 500 hours of community service work. Restitution and community service work shall be in addition to any fine or sentence which may be imposed and shall not be in lieu thereof.

(2) Whenever a person is charged with committing an assault or aggravated assault or a battery or aggravated battery upon a person 65 years of age or older, regardless of whether he or she knows or has reason to know the age of the victim, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

(b) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.

(c) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(d) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(3) Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

Credits

Laws 1989, c. 89-327, § 1. Amended by Laws 1992, c. 92-50, § 1, eff. Oct. 1, 1992; Laws 1993, c. 93-406, § 18, eff. Jan. 1, 1994; Laws 1997, c. 97-102, § 1200, eff. July 1, 1997; Laws 1997, c. 97-194, § 19, eff. Oct. 1, 1998; Laws 1999, c. 99-188, § 5, eff. July 1, 1999; Laws 2002, c. 2002-208, § 1, eff. April 29, 2002.

Notes of Decisions (29)

West's F. S. A. § 784.08, FL ST § 784.08

Current with laws and joint resolutions in effect from the 2021 First Regular Session and Special "A" and "B" Sessions of the Twenty-Seventh Legislature. Some statute sections may be more current, see credits for details.

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.