

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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February 10, 2010

Andrea:

Currently, under s. 946.41 (1), any person who “knowingly resists or obstructs an officer while such officer is doing any act in an official capacity and with lawful authority, is guilty of a Class A misdemeanor.” Assembly Substitute Amendment 1 increases the penalty to a Class H felony if the person causes bodily harm to an officer while violating s. 946.41 (1). This amendment limits the penalty increase so that it applies only if the person causes *substantial* bodily harm to an officer while violating s. 946.41 (1). If the person causes bodily harm while violating s. 946.41 (1), the person would be subject to the same penalty, a Class A misdemeanor, as a person who violates s. 946.41 (1) without causing bodily harm (i.e., bodily harm is not an element of the crime). In other words, the penalty increase under ASA1, as amended by your amendment, applies only if the person causes substantial bodily harm; otherwise current law applies.

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