

CS/CS/HB 269 – Public Nuisances

This bill amends and creates multiple statutes. First, it amends s. 404.413, F.S., adding a **1st degree misdemeanor** for a person “who dumps litter...in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes” if such commits this violation “by intentionally dumping litter onto private property for the purpose of intimidating or threatening the owner, resident, or invitee of such property.” An **unranked, 3rd degree felony (Level 1 by default)** is created for when a person dumps litter of the same weight/volume thresholds not for commercial purposes and is “intentionally dumping litter onto private property for the purpose of intimidating the owner, resident, or invitee of such property and such litter contains a credible threat.” Additionally, it is stated that “the term ‘credible threat’ has the same meaning as in s. 784.048(1), F.S.” Furthermore, “if the penalty for a violation of this subparagraph is reclassified under s. 775.085, F.S., such a violation is considered a hate crime for purposes of the reporting requirements of s. 877.19, F.S.”

This bill also creates s. 784.0493, F.S., stating that “a person may not willfully and maliciously harass or intimidate another person based on the person's wearing or displaying of any indicia relating to any religious or ethnic heritage.” Such an act is a **1st degree misdemeanor**. An **unranked, 3rd degree felony (Level 1 by default)** is also created for a person who commits this violation “and in the course of committing the violation makes a credible threat to the person who is the subject of the harassment or intimidation.” It is also stated that “a violation of this section is considered a hate crime for purposes of the reporting requirements of s. 877.19, F.S.” Both “credible threat” and “harass” have the same definitions as those provided in s. 784.048(1), F.S.

This bill also amends s. 806.13, F.S., adding the following: “A person may not knowingly and intentionally display or project, using any medium, an image onto a building, structure, or other property without the written consent of the owner of the building, structure, or property. For purposes of this subsection, the term ‘image’ means a visual representation or likeness of a person or object, including text, graphics, logos, other artwork, or any combination thereof.” A person who violates this commits a **1st degree misdemeanor**, and a person who does such an act “by displaying or projecting an image that contains a credible threat, as that term is defined in s. 784.048(1), F.S.” commits an **unranked, 3rd degree felony (Level 1 by default)**. Furthermore, “if the penalty for a violation of this subsection is reclassified under s. 775.085, F.S., such a violation is considered a hate crime for purposes of the reporting requirements of s. 877.19, F.S.”

This bill also creates s. 810.098, F.S., adding a **1st degree misdemeanor** for “whoever, without being authorized, licensed, or invited, willfully enters the campus of a state university or Florida College System institution for the purpose of threatening or intimidating another person, and is warned by the state university or Florida College System institution to depart and refuses to do so.” Additionally, “the terms ‘Florida College System institution’ and ‘state university’ have the same meaning as in s. 1000.21(3) and (6), F.S., respectively.” Furthermore, “if the penalty for a violation of this

subsection is reclassified under s. 775.085, F.S., such a violation is considered a hate crime for purposes of the reporting requirements of s. 877.19, F.S.”

Finally, this bill amends s. 871.01, F.S., including additional language for the current 2nd degree misdemeanor while also elevating this offense to a **1st degree misdemeanor** (new language in bold): “Whoever willfully **and maliciously** interrupts or disturbs any school or any assembly of people met for the worship of God, **any assembly of people met for the purpose of acknowledging the death of an individual**, or for any other lawful purpose.” Furthermore, a person who commits this violation “and in doing so makes a credible threat, as that term is defined in s. 784.048(1), F.S.,” this act would be an **unranked, 3rd degree felony (Level 1 by default)**.” Furthermore, “if the penalty for a violation of this subsection is reclassified under s. 775.085, F.S., such a violation is considered a hate crime for purposes of the reporting requirements of s. 877.19, F.S.”

In FY 18-19, the incarceration rate for a Level 1, 3rd degree felony was 9.1%, and in FY 19-20 the incarceration rate was 8.2%. In FY 20-21, the incarceration rate for a Level 1, 3rd degree felony was 7.5%, and in FY 21-22 the incarceration rate was 8.6%.

Per data obtained from the Department of Environmental Protection’s Schedule I found on the Florida Fiscal Portal, there are estimated to be a maximum of 800 people who receive citations under s. 403.413, F.S. for littering less than 15 pounds each fiscal year. It is not known how many of these people would fit the criteria listed for the new felony created for this statute.

Per DOC, there were 33 new commitments in FY 18-19 for a violation under s. 784.048(3), F.S., defined as “a person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person. There were 26 new commitments in FY 19-20, 29 new commitments in FY 20-21, and there were 27 new commitments in FY 21-22. It is not known how many of these offenders committed acts described under this bill.

Per DOC, there were 66 new commitments in FY 18-19 for any felony violation under s. 806.13, F.S., and there were 46 new commitments in FY 19-20. In FY 20-21, there were 52 new commitments, and there were 68 new commitments in FY 21-22. However, there is no data available for acts that would fall under the newly added felony language for “displaying or projecting an image that contains a credible threat.”

Per FDLE, in FY 21-22, there were 35 arrests under the current 2nd degree misdemeanor language for disturbance of a school, church, or other assembly. There were also 4 guilty/convicted charges and 9 adjudication withheld charges.

Per Uniform Crime Reports, in CY 2021, there were 5 arrests for crimes evidencing prejudice with a religious bias. Of those arrests, 4 were Anti-Jewish and one was Anti-Catholic.

There is no data available on the types of harassment or threats outlined in the newly created s. 784.0493, F.S. and s. 810.098, F.S.

While this new language does create multiple felonies, the number of potential offenders is not known, so the impact on the prison population cannot be quantified.

**CONFERENCE APPROVED ESTIMATE: Positive
Indeterminate**