

## CS/HB 269 – Public Nuisances

This bill amends and creates multiple statutes. First, it amends s. 404.413, F.S., adding an **unranked, 3<sup>rd</sup> degree felony (Level 1 by default)** for when a person dumps litter “in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes” and is “intentionally dumping litter onto private residential property that evidences religious or ethnic animus for the purpose of intimidating or threatening the owner or resident of such property.” Furthermore, it “shall be 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, threaten, 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 an **unranked, 3<sup>rd</sup> degree felony (Level 1 by default)**. Also, such a violation will also be “considered a hate crime for purposes of the reporting requirements of s. 877.19, F.S.”

This bill also amends s. 806.13, F.S., adding the following to the Level 1, 3<sup>rd</sup> degree felony (new language in bold): “Any person who willfully and maliciously defaces, injures, or damages by any means...**any cemetery, grave, or memorial as defined in s. 806.135, F.S., which the person knows, or reasonably should have known, is associated with a particular religious or ethnic heritage...or...any school, or community center as defined in s. 893.13(1)(c), F.S., which the person knows, or reasonably should have known, is associated with a particular religious or ethnic heritage.**” It also removes the language that this felony only applies “if the damage to the property is greater than \$200.” Also, such a violation will also be “considered a hate crime for purposes of the reporting requirements of s. 877.19, F.S.”

This bill continues amending s. 806.13, F.S., by adding a **1<sup>st</sup> degree misdemeanor** for a person to “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.” Furthermore, “if a person displays or projects an image that evidences religious or ethnic animus, including anti-Semitism as described in s. 1000.05(8), F.S. during the commission of an offense under this subsection, it is prima facie evidence that such person has evidenced prejudice in the commission of the offense for the purpose of reclassifying the penalty under s. 775.085, F.S.” and “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 would reclassify the 1<sup>st</sup> degree misdemeanor to a Level 1, 3<sup>rd</sup> degree felony.

This bill also creates s. 810.098, F.S., adding a **1<sup>st</sup> 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.” This misdemeanor is reclassified as a Level 1, 3<sup>rd</sup> degree felony “if a person evidences religious or ethnic animus, including anti-Semitism as described in s. 1000.05(8), F.S. during the commission of an offense under this subsection” since “it is prima facie evidence that such person has evidenced prejudice in the commission of the offense for the purpose of reclassifying the penalty under s. 775.085, F.S.” Also, “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 2<sup>nd</sup> degree misdemeanor while also elevating this offense to a **1<sup>st</sup> 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, “if a person evidences religious or ethnic animus, including anti-Semitism as described in s. 1000.05(8), F.S., during the commission of an offense under this subsection, it is prima facie evidence that such person has evidenced prejudice in the commission of the offense for the purpose of reclassifying the penalty under s. 775.085, F.S.” Therefore, this would now be reclassified as a Level 1, 3<sup>rd</sup> degree felony. Also, “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, 3<sup>rd</sup> 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, 3<sup>rd</sup> 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 FDLE, there were 2,978 misdemeanor criminal mischief arrests (s. 806.13(1)(b)1, F.S.) in FY 21-22, with 1,587 guilty/convicted charges and 430 adjudication withheld charges. Per DOC, there have been no new commitments to prison in the last four fiscal years under the current version of the Level 1, 3<sup>rd</sup> degree felony for “any person who willfully and maliciously defaces, injures, or damages by any means...any church, synagogue, mosque, or other place of worship, or any religious article contained therein.” Furthermore, there is no data available regarding image projections that evidence “religious or ethnic animus.”

Per FDLE, in FY 21-22, there were 35 arrests under the current 2<sup>nd</sup> 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 ADOPTED ESTIMATE: Positive Indeterminate**

**Requested by: House**