

## SB 994 – Public Nuisances

This bill amends multiple statutes. First, it amends s. 404.413, F.S., adding a **1<sup>st</sup> degree misdemeanor** for the following: “a person who distributes pamphlets, flyers, or other materials, whether for commercial or noncommercial purposes, in a public place, including outside a private residence, and such materials discarded by recipients, leads to littering.” It is reclassified as an **unranked, 3<sup>rd</sup> degree felony (Level 1 by default)** for this violation if it “involves material that evidences religious or ethnic intimidation, threat, or intent to harm, including content described in s. 806.13(2)(b), F.S.” Furthermore, it “shall be considered a hate crime for purposes of the reporting requirements of s. 877.19, F.S.”

This bill also amends s. 784.048, F.S., stating that “a person who willfully follows, harasses, or interferes with another person’s quiet enjoyment based on the person’s wearing of religious-based garments or garments commonly associated with a particular religious or ethnic group or any other indicia of any religious or ethnic heritage commits the offense of aggravated stalking” and “a violation of this subsection shall be considered a hate crime for purposes of the reporting requirements of s. 877.19, F.S.” An **unranked, 3<sup>rd</sup> degree felony (Level 1 by default)** is also created for one who commits this offense.

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 religious cemetery, gravesite, or grave marker, including, but not limited to, any Holocaust memorial or any plaque, statue, or museum with any indication of religious or ethnic heritage...any school or community center with any indicia of any religious or ethnic heritage....or...any public or private property in a manner that evidences religious or ethnic intimidation, threat, or intent to harm.**”

It also removes the language that this felony only applies “if the damage to the property is greater than \$200.” It also adds s. 806.13(2)(b), F.S., stating that “a violation of this subsection includes any physical manifestations of anti-Semitism directed toward a Jewish or non-Jewish individual or his or her property or toward Jewish community institutions or religious facilities, Jewish cemeteries, or Jewish gravesites. Such expression includes the use of a Nazi symbol, such as a swastika.” 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 who projects an image outdoors onto a publicly or privately owned building or other property without the written consent of the owner of the building or other property.” Furthermore, an **unranked, 3<sup>rd</sup> degree felony (Level 1 by default)** is added “if the image projected evidences religious or ethnic intimidation, threat, or intent to harm,” which would include the anti-Semitism described in the prior paragraph. Also, such a

violation will also be “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 (new language in bold): “Whoever willfully interrupts or disturbs any school or any assembly of people **meeting to worship, meeting for the purpose of acknowledging the death of an individual, or meeting** for any **other** lawful purpose.” The original language included “assembly of people met for the worship of God or for any lawful purpose.” It also reclassifies the misdemeanor as an **unranked, 3<sup>rd</sup> degree felony (Level 1 by default)** for this violation “if a person who violates this subsection evidences religious or ethnic intimidation, threat, or intent to harm, including content described in s. 806.13(2)(b), F.S., during the commission of the offense.” As with the prior offenses, “a violation of this paragraph shall be 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 misdemeanor and felony created for this statute.

Per FDLE, there were 638 misdemeanor stalking arrests (s. 784.048(2), F.S.) in FY 21-22, with 280 guilty/convicted charges and 80 adjudication withheld charges. Per DOC, in FY 18-19, there were 74 new commitments for aggravated stalking, and in FY 19-20, there were 62 new commitments. In FY 20-21, there were 67 new commitments, and in FY 21-22, there were 68 new commitments. It should be noted that over half of these involved violating court orders. Furthermore, it is not known if offenders fitting the bill’s criteria are already included in these numbers.

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 intimidation, threat, or intent to harm.”

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.

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: Senate**