

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/HB 1 — Combating Public Disorder

by Judiciary Committee and Reps. Fernandez-Barquin, Byrd, and others (SB 484 by Senator Burgess)

The bill (Chapter 2021-6, L.O.F.) addresses acts of public disorder and responses to public disorder by:

- Codifying the common law elements of the first degree misdemeanor offense of affray, which a person commits if he or she engages, by mutual consent, in fighting with another person in a public place to the terror of the people;
- Defining the third degree felony offense of riot, which a person commits if he or she willfully participates in a violent public disturbance involving an assembly of three or more persons, acting with a common intent to assist each other in violent and disorderly conduct, resulting in:
 - Injury to another person;
 - Damage to property; or
 - Imminent danger of injury to another person or damage to property;
- Creating the second degree felony offense of aggravated rioting, which a person commits if, in the course of committing a riot, he or she:
 - Participates with 25 or more persons;
 - Causes great bodily harm to a person not participating in the riot;
 - Causes property damage in excess of \$5,000;
 - Displays, uses, threatens to use, or attempts to use a deadly weapon; or
 - By force, or threat of force, endangers the safe movement of a vehicle traveling on a public street, highway, or road;
- Defining the third degree felony offense of inciting a riot, which a person commits when he or she willfully incites another person to participate in a riot, resulting in a riot or imminent danger of a riot;
- Creating the second degree felony offense of aggravated inciting a riot, which a person commits if he or she:
 - Incites a riot resulting in great bodily harm to another person not participating in the riot;
 - Incites a riot resulting in property damage in excess of \$5,000; or
 - Supplies a deadly weapon to another person or teaches another person to prepare a deadly weapon with intent that the deadly weapon be used in a riot for an unlawful purpose;
- Specifying that these public disorder offenses do not prohibit constitutionally protected activity such as peaceful protest;
- Requiring a person to be held in jail until he or she appears for a first appearance hearing and a court determines bond if the person was arrested for mob intimidation, riot, aggravated riot, inciting a riot, aggravated inciting a riot, unlawful assembly, theft or burglary committed during a riot or an aggravated riot, and theft committed within a county that is subject to a state of emergency (conforming to a current first appearance

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requirement for burglary committed within a county that is subject to a state of emergency);

- Authorizing the state attorney for the judicial circuit in which a municipality is located, or a member of the governing body of that municipality, to appeal to the Administration Commission a reduction in the operating budget of the municipal law enforcement agency, similar to the budget reduction appeals process available to sheriffs;
- Revising s. 316.2045, F.S., relating to obstruction of roadways, to remove language that federal courts found unconstitutional, modify the pedestrian violation for willful obstruction of roadways to add the element of remaining in the roadway but remove the element of approaching motor vehicles on the roadway, and specify that this pedestrian violation does not prohibit a local governmental entity from issuing a lawful special event permit;
- Providing that a municipality is civilly liable for specified damages proximately caused by the municipality's breach of a duty to allow the municipal law enforcement agency to respond appropriately to protect persons and property during a riot or an unlawful assembly (as specified in the bill), and providing that statutory sovereign immunity recovery limits do not apply to such action;
- Increasing penalties for assault and battery, and increasing offense severity level rankings for aggravated assault and aggravated battery, when committed in furtherance of a riot or an aggravated riot;
- Repealing s. 870.03, F.S., which punishes committing specific types of damage (to dwellings, buildings, ships, or vessels) during an unlawful assembly, since this type of public disorder would be punished by the offense of riot (as defined by the bill);
- Creating the first degree misdemeanor offense of mob intimidation, which is committed when a person, assembled with two or more other persons and acting with a common intent, uses force or threatens to use imminent force, to compel or induce, or attempt to compel or induce, another person to do or refrain from doing any act or to assume, abandon, or maintain a particular viewpoint against his or her will;
- Providing for a six-month mandatory minimum sentence for battery on a law enforcement officer if the offense was committed in furtherance of a riot or an aggravated riot;
- Increasing the offense severity level rankings for an assault or battery on a law enforcement officer or other specified official when the offense was committed in furtherance of a riot or an aggravated riot;
- Amending s. 806.13, F.S., relating to criminal mischief, to provide that it is a third degree felony for any person, without the consent of the owner of a memorial or historic property, to willfully and maliciously deface, injure, or otherwise damage the memorial or historic property if the value of the damage is greater than \$200, and requiring restitution of the full cost of repair or replacement of the memorial or historic property;
- Creating the second degree felony offense of willfully and maliciously destroying, demolishing, or pulling down any memorial or historic property unless authorized by the owner of the memorial or historic property, and requiring restitution of the full cost of repair or replacement of the memorial or historic property;

- Reclassifying the degree, and increasing the offense severity level ranking, of specified burglary and theft offenses committed during a riot or an aggravated riot when facilitated by conditions arising from the riot;
- Creating the first degree misdemeanor offense of cyberintimidation by publication, which a person commits if he or she electronically publishes another person's personal identification information with the intent to, or with the intent that a third party will use the information to: incite violence or commit a crime against the person; or threaten or harass the person, placing the other person in reasonable fear of bodily harm;
- Creating an affirmative defense in a civil action for damages for personal injury, wrongful death, or property damage that such action arose from an injury or damage sustained by a participant acting in furtherance of a riot;
- Increasing the offense severity ranking level of offenses involving willfully injuring or removing a tomb or monument; and
- Ranking battery during a riot or an aggravated riot and several other public disorder offenses in the offense severity level ranking chart of the Criminal Punishment Code.

These provisions were approved by the Governor and take effect April 19, 2021.

Vote: Senate 23-17; House 76-39