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LEGISLATIVE ACTION

Senate

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House

Senator Polsky moved the following:

Senate Amendment (with title amendment)

Delete lines 390 - 812

and insert:

(4) The State of Florida shall fully reimburse the unit of local government required to hold in custody a person arrested for a violation of this section.

Section 9. Subsection (2) of section 784.07, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

784.07 Assault or battery of law enforcement officers,



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12 firefighters, emergency medical care providers, public transit
13 employees or agents, or other specified officers;
14 reclassification of offenses; minimum sentences.-

15 (2) Whenever any person is charged with knowingly
16 committing an assault or battery upon a law enforcement officer,
17 a firefighter, an emergency medical care provider, a railroad
18 special officer, a traffic accident investigation officer as
19 described in s. 316.640, a nonsworn law enforcement agency
20 employee who is certified as an agency inspector, a blood
21 alcohol analyst, or a breath test operator while such employee
22 is in uniform and engaged in processing, testing, evaluating,
23 analyzing, or transporting a person who is detained or under
24 arrest for DUI, a law enforcement explorer, a traffic infraction
25 enforcement officer as described in s. 316.640, a parking
26 enforcement specialist as defined in s. 316.640, a person
27 licensed as a security officer as defined in s. 493.6101 and
28 wearing a uniform that bears at least one patch or emblem that
29 is visible at all times that clearly identifies the employing
30 agency and that clearly identifies the person as a licensed
31 security officer, or a security officer employed by the board of
32 trustees of a community college, while the officer, firefighter,
33 emergency medical care provider, railroad special officer,
34 traffic accident investigation officer, traffic infraction
35 enforcement officer, inspector, analyst, operator, law
36 enforcement explorer, parking enforcement specialist, public
37 transit employee or agent, or security officer is engaged in the
38 lawful performance of his or her duties, the offense for which
39 the person is charged shall be reclassified as follows:

40 (a) In the case of assault, from a misdemeanor of the



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41 second degree to a misdemeanor of the first degree.

42 (b) In the case of battery, from a misdemeanor of the first
43 degree to a felony of the third degree. Notwithstanding any
44 other provision of law, a person convicted of battery upon a law
45 enforcement officer committed in furtherance of a riot or an
46 aggravated riot prohibited under s. 870.01 shall be sentenced to
47 a minimum term of imprisonment of 6 months.

48 (c) In the case of aggravated assault, from a felony of the
49 third degree to a felony of the second degree. Notwithstanding
50 any other provision of law, any person convicted of aggravated
51 assault upon a law enforcement officer shall be sentenced to a
52 minimum term of imprisonment of 3 years.

53 (d) In the case of aggravated battery, from a felony of the
54 second degree to a felony of the first degree. Notwithstanding
55 any other provision of law, any person convicted of aggravated
56 battery of a law enforcement officer shall be sentenced to a
57 minimum term of imprisonment of 5 years.

58 (4) For purposes of sentencing under chapter 921, a felony
59 violation of this section committed by a person acting in
60 furtherance of a riot or an aggravated riot prohibited under s.
61 870.01 is ranked one level above the ranking under s. 921.0022
62 for the offense committed.

63 Section 10. Subsections (3) through (9) of section 806.13,
64 Florida Statutes, are renumbered as subsections (4) through
65 (10), respectively, a new subsection (3) is added to that
66 section, and present subsection (8) of that section is amended,
67 to read:

68 806.13 Criminal mischief; penalties; penalty for minor.—

69 (3) Any person who, without the consent of the owner



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70 thereof, willfully and maliciously defaces, injures, or
71 otherwise damages by any means a memorial or historic property,
72 as defined in s. 806.135(1), and the value of the damage to the
73 memorial or historic property is greater than \$200, commits a
74 felony of the third degree, punishable as provided in s.
75 775.082, s. 775.083, or s. 775.084. A court shall order any
76 person convicted of violating this subsection to pay
77 restitution, which shall include the full cost of repair or
78 replacement of such memorial or historic property.

79 (9)(8) A minor whose driver license or driving privilege is
80 revoked, suspended, or withheld under subsection (8)(7) may
81 elect to reduce the period of revocation, suspension, or
82 withholding by performing community service at the rate of 1 day
83 for each hour of community service performed. In addition, if
84 the court determines that due to a family hardship, the minor's
85 driver license or driving privilege is necessary for employment
86 or medical purposes of the minor or a member of the minor's
87 family, the court shall order the minor to perform community
88 service and reduce the period of revocation, suspension, or
89 withholding at the rate of 1 day for each hour of community
90 service performed. As used in this subsection, the term
91 "community service" means cleaning graffiti from public
92 property.

93 Section 11. Section 806.135, Florida Statutes, is created
94 to read:

95 806.135 Destroying or demolishing a memorial or historic
96 property.—

97 (1) As used in this section, the term:

98 (a) "Historic property" means any building, structure,



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99 site, or object that has been officially designated as a
100 historic building, historic structure, historic site, or
101 historic object through a federal, state, or local designation
102 program.

103 (b) "Memorial" means a plaque, statue, marker, flag,
104 banner, cenotaph, religious symbol, painting, seal, tombstone,
105 structure name, or display that is constructed and located with
106 the intent of being permanently displayed or perpetually
107 maintained; is dedicated to a historical person, an entity, an
108 event, or a series of events; and honors or recounts the
109 military service of any past or present United States Armed
110 Forces military personnel, or the past or present public service
111 of a resident of the geographical area comprising the state or
112 the United States. The term includes, but is not limited to, the
113 following memorials established under chapter 265:

- 114 1. Florida Women's Hall of Fame.
- 115 2. Florida Medal of Honor Wall.
- 116 3. Florida Veterans' Hall of Fame.
- 117 4. POW-MIA Chair of Honor Memorial.
- 118 5. Florida Veterans' Walk of Honor and Florida Veterans'
119 Memorial Garden.
- 120 6. Florida Law Enforcement Officers' Hall of Fame.
- 121 7. Florida Holocaust Memorial.
- 122 8. Florida Slavery Memorial.
- 123 9. Any other memorial located within the Capitol Complex,
124 including, but not limited to, Waller Park.

125 (2) It is unlawful for any person to willfully and
126 maliciously destroy or demolish any memorial or historic
127 property, or willfully and maliciously pull down a memorial or



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128 historic property, unless authorized by the owner of the
129 memorial or historic property. A person who violates this
130 section commits a felony of the second degree, punishable as
131 provided in s. 775.082, s. 775.083, or s. 775.084.

132 (3) A court shall order any person convicted of violating
133 this section to pay restitution, which shall include the full
134 cost of repair or replacement of such memorial or historic
135 property.

136 Section 12. Subsections (3) and (4) of section 810.02,
137 Florida Statutes, are amended to read:

138 810.02 Burglary.—

139 (3) Burglary is a felony of the second degree, punishable
140 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the
141 course of committing the offense, the offender does not make an
142 assault or battery and is not and does not become armed with a
143 dangerous weapon or explosive, and the offender enters or
144 remains in a:

145 (a) Dwelling, and there is another person in the dwelling
146 at the time the offender enters or remains;

147 (b) Dwelling, and there is not another person in the
148 dwelling at the time the offender enters or remains;

149 (c) Structure, and there is another person in the structure
150 at the time the offender enters or remains;

151 (d) Conveyance, and there is another person in the
152 conveyance at the time the offender enters or remains;

153 (e) Authorized emergency vehicle, as defined in s. 316.003;
154 or

155 (f) Structure or conveyance when the offense intended to be
156 committed therein is theft of a controlled substance as defined



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157 in s. 893.02. Notwithstanding any other law, separate judgments
158 and sentences for burglary with the intent to commit theft of a
159 controlled substance under this paragraph and for any applicable
160 possession of controlled substance offense under s. 893.13 or
161 trafficking in controlled substance offense under s. 893.135 may
162 be imposed when all such offenses involve the same amount or
163 amounts of a controlled substance.

164

165 However, if the burglary is committed during a riot or an
166 aggravated riot prohibited under s. 870.01 and the perpetration
167 of the burglary is facilitated by conditions arising from the
168 riot; or within a county that is subject to a state of emergency
169 declared by the Governor under chapter 252 after the declaration
170 of emergency is made and the perpetration of the burglary is
171 facilitated by conditions arising from the emergency, the
172 burglary is a felony of the first degree, punishable as provided
173 in s. 775.082, s. 775.083, or s. 775.084. As used in this
174 subsection, the term "conditions arising from the riot" means
175 civil unrest, power outages, curfews, or a reduction in the
176 presence of or response time for first responders or homeland
177 security personnel and the term "conditions arising from the
178 emergency" means civil unrest, power outages, curfews, voluntary
179 or mandatory evacuations, or a reduction in the presence of or
180 response time for first responders or homeland security
181 personnel. A person arrested for committing a burglary during a
182 riot or an aggravated riot or within a county that is subject to
183 such a state of emergency may not be released until the person
184 appears before a committing magistrate at a first appearance
185 hearing. The State of Florida shall fully reimburse the unit of



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186 local government required to hold in custody a person arrested
187 for a violation of this subsection. For purposes of sentencing
188 under chapter 921, a felony offense that is reclassified under
189 this subsection is ranked one level above the ranking under s.
190 921.0022 or s. 921.0023 of the offense committed.

191 (4) Burglary is a felony of the third degree, punishable as
192 provided in s. 775.082, s. 775.083, or s. 775.084, if, in the
193 course of committing the offense, the offender does not make an
194 assault or battery and is not and does not become armed with a
195 dangerous weapon or explosive, and the offender enters or
196 remains in a:

197 (a) Structure, and there is not another person in the
198 structure at the time the offender enters or remains; or

199 (b) Conveyance, and there is not another person in the
200 conveyance at the time the offender enters or remains.

201
202 However, if the burglary is committed during a riot or an
203 aggravated riot prohibited under s. 870.01 and the perpetration
204 of the burglary is facilitated by conditions arising from the
205 riot; or within a county that is subject to a state of emergency
206 declared by the Governor under chapter 252 after the declaration
207 of emergency is made and the perpetration of the burglary is
208 facilitated by conditions arising from the emergency, the
209 burglary is a felony of the second degree, punishable as
210 provided in s. 775.082, s. 775.083, or s. 775.084. As used in
211 this subsection, the terms "conditions arising from the riot"
212 and term "conditions arising from the emergency" have the same
213 meanings as provided in subsection (3) means civil unrest, power
214 outages, curfews, voluntary or mandatory evacuations, or a



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215 ~~reduction in the presence of or response time for first~~
216 ~~responders or homeland security personnel.~~ A person arrested for
217 committing a burglary during a riot or an aggravated riot or
218 within a county that is subject to such a state of emergency may
219 not be released until the person appears before a committing
220 magistrate at a first appearance hearing. The State of Florida
221 shall fully reimburse the unit of local government required to
222 hold in custody a person arrested for a violation of this
223 subsection. For purposes of sentencing under chapter 921, a
224 felony offense that is reclassified under this subsection is
225 ranked one level above the ranking under s. 921.0022 or s.
226 921.0023 of the offense committed.

227 Section 13. Paragraphs (b) and (c) of subsection (2) of
228 section 812.014, Florida Statutes, are amended to read:

229 812.014 Theft.—

230 (2)

231 (b)1. If the property stolen is valued at \$20,000 or more,
232 but less than \$100,000;

233 2. The property stolen is cargo valued at less than \$50,000
234 that has entered the stream of interstate or intrastate commerce
235 from the shipper's loading platform to the consignee's receiving
236 dock;

237 3. The property stolen is emergency medical equipment,
238 valued at \$300 or more, that is taken from a facility licensed
239 under chapter 395 or from an aircraft or vehicle permitted under
240 chapter 401; or

241 4. The property stolen is law enforcement equipment, valued
242 at \$300 or more, that is taken from an authorized emergency
243 vehicle, as defined in s. 316.003,



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245 the offender commits grand theft in the second degree,
246 punishable as a felony of the second degree, as provided in s.
247 775.082, s. 775.083, or s. 775.084. Emergency medical equipment
248 means mechanical or electronic apparatus used to provide
249 emergency services and care as defined in s. 395.002(9) or to
250 treat medical emergencies. Law enforcement equipment means any
251 property, device, or apparatus used by any law enforcement
252 officer as defined in s. 943.10 in the officer's official
253 business. However, if the property is stolen during a riot or an
254 aggravated riot prohibited under s. 870.01 and the perpetration
255 of the theft is facilitated by conditions arising from the riot;
256 or within a county that is subject to a state of emergency
257 declared by the Governor under chapter 252, the theft is
258 committed after the declaration of emergency is made, and the
259 perpetration of the theft is facilitated by conditions arising
260 from the emergency, the theft is a felony of the first degree,
261 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
262 As used in this paragraph, the term "conditions arising from the
263 riot" means civil unrest, power outages, curfews, or a reduction
264 in the presence of or response time for first responders or
265 homeland security personnel and the term "conditions arising
266 from the emergency" means civil unrest, power outages, curfews,
267 voluntary or mandatory evacuations, or a reduction in the
268 presence of or response time for first responders or homeland
269 security personnel. A person arrested for committing a theft
270 during a riot or an aggravated riot or within a county that is
271 subject to a state of emergency may not be released until the
272 person appears before a committing magistrate at a first



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273 appearance hearing. The State of Florida shall fully reimburse
274 the unit of local government required to hold in custody a
275 person arrested for a violation of this paragraph. For purposes
276 of sentencing under chapter 921, a felony offense that is
277 reclassified under this paragraph is ranked one level above the
278 ranking under s. 921.0022 or s. 921.0023 of the offense
279 committed.

280 (c) It is grand theft of the third degree and a felony of
281 the third degree, punishable as provided in s. 775.082, s.
282 775.083, or s. 775.084, if the property stolen is:

- 283 1. Valued at \$750 or more, but less than \$5,000.
- 284 2. Valued at \$5,000 or more, but less than \$10,000.
- 285 3. Valued at \$10,000 or more, but less than \$20,000.
- 286 4. A will, codicil, or other testamentary instrument.
- 287 5. A firearm.
- 288 6. A motor vehicle, except as provided in paragraph (a).
- 289 7. Any commercially farmed animal, including any animal of
290 the equine, avian, bovine, or swine class or other grazing
291 animal; a bee colony of a registered beekeeper; and aquaculture
292 species raised at a certified aquaculture facility. If the
293 property stolen is a commercially farmed animal, including an
294 animal of the equine, avian, bovine, or swine class or other
295 grazing animal; a bee colony of a registered beekeeper; or an
296 aquaculture species raised at a certified aquaculture facility,
297 a \$10,000 fine shall be imposed.
- 298 8. Any fire extinguisher that, at the time of the taking,
299 was installed in any building for the purpose of fire prevention
300 and control. This subparagraph does not apply to a fire
301 extinguisher taken from the inventory at a point-of-sale



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302 business.

303 9. Any amount of citrus fruit consisting of 2,000 or more
304 individual pieces of fruit.

305 10. Taken from a designated construction site identified by
306 the posting of a sign as provided for in s. 810.09(2)(d).

307 11. Any stop sign.

308 12. Anhydrous ammonia.

309 13. Any amount of a controlled substance as defined in s.
310 893.02. Notwithstanding any other law, separate judgments and
311 sentences for theft of a controlled substance under this
312 subparagraph and for any applicable possession of controlled
313 substance offense under s. 893.13 or trafficking in controlled
314 substance offense under s. 893.135 may be imposed when all such
315 offenses involve the same amount or amounts of a controlled
316 substance.

317

318 However, if the property is stolen during a riot or an
319 aggravated riot prohibited under s. 870.01 and the perpetration
320 of the theft is facilitated by conditions arising from the riot;
321 or within a county that is subject to a state of emergency
322 declared by the Governor under chapter 252, the property is
323 stolen after the declaration of emergency is made, and the
324 perpetration of the theft is facilitated by conditions arising
325 from the emergency, the offender commits a felony of the second
326 degree, punishable as provided in s. 775.082, s. 775.083, or s.
327 775.084, if the property is valued at \$5,000 or more, but less
328 than \$10,000, as provided under subparagraph 2., or if the
329 property is valued at \$10,000 or more, but less than \$20,000, as
330 provided under subparagraph 3. As used in this paragraph, the



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331 terms "conditions arising from a riot" and ~~term~~ "conditions
332 arising from the emergency" have the same meanings as provided
333 in paragraph (b). A person arrested for committing a theft
334 during a riot or an aggravated riot or within a county that is
335 subject to a state of emergency may not be released until the
336 person appears before a committing magistrate at a first
337 appearance hearing. The State of Florida shall fully reimburse
338 the unit of local government required to hold in custody a
339 person arrested for a violation of this subsection means ~~civil~~
340 ~~unrest, power outages, curfews, voluntary or mandatory~~
341 ~~evacuations, or a reduction in the presence of or the response~~
342 ~~time for first responders or homeland security personnel.~~ For
343 purposes of sentencing under chapter 921, a felony offense that
344 is reclassified under this paragraph is ranked one level above
345 the ranking under s. 921.0022 or s. 921.0023 of the offense
346 committed.

347 Section 14. Section 836.115, Florida Statutes, is created
348 to read:

349 836.115 Cyberintimidation by publication.-

350 (1) As used in this section, the term:

351 (a) "Electronically publish" means to disseminate, post, or
352 otherwise disclose information to an Internet site or forum.

353 (b) "Harass" has the same meaning as provided in s.
354 817.568(1)(c).

355 (c) "Personal identification information" has the same
356 meaning as provided in s. 817.568(1)(f).

357 (2) It is unlawful for a person to electronically publish
358 another person's personal identification information with the
359 intent to, or with the intent that a third party will use the



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360 information to:

361 (a) Incite violence or commit a crime against the person;

362 or

363 (b) Threaten or harass the person, placing such person in
364 reasonable fear of bodily harm.

365

366 A person who violates this subsection commits a misdemeanor of a
367 first degree, punishable as provided in s. 775.082 or s.
368 775.083.

369 Section 15. Section 870.01, Florida Statutes, is amended to
370 read:

371 870.01 Affrays and riots.—

372 (1) A person commits an affray if he or she engages, by
373 mutual consent, in fighting with another person in a public
374 place to the terror of the people. A person who commits ~~All~~
375 ~~persons guilty of an affray~~ commits shall be guilty of a
376 misdemeanor of the first degree, punishable as provided in s.
377 775.082 or s. 775.083.

378 (2) A person commits a riot if he or she willfully
379 participates in a violent public disturbance involving an
380 assembly of three or more persons, acting with a common intent
381 to assist each other in violent and disorderly conduct,
382 resulting in:

383 (a) Injury to another person;

384 (b) Damage to property; or

385 (c) Imminent danger of injury to another person or damage
386 to property.

387

388 A person who commits ~~All persons guilty of a riot~~ commits, ~~or of~~



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389 ~~inciting or encouraging a riot, shall be guilty of a felony of~~
390 ~~the third degree, punishable as provided in s. 775.082, s.~~
391 ~~775.083, or s. 775.084.~~

392 (3) A person commits aggravated rioting if, in the course
393 of committing a riot, he or she:

394 (a) Participates with 25 or more other persons;

395 (b) Causes great bodily harm to a person not participating
396 in the riot;

397 (c) Causes property damage in excess of \$5,000;

398 (d) Displays, uses, threatens to use, or attempts to use a
399 deadly weapon; or

400 (e) By force, or threat of force, endangers the safe
401 movement of a vehicle traveling on a public street, highway, or
402 road.

403
404 A person who commits aggravating rioting commits a felony of the
405 second degree, punishable as provided in s. 775.082, s. 775.083,
406 or s. 775.084.

407 (4) A person commits inciting a riot if he or she willfully
408 incites another person to participate in a riot, resulting in a
409 riot or imminent danger of a riot. A person who commits inciting
410 a riot commits a felony of the third degree, punishable as
411 provided in s. 775.082, s. 775.083, or s. 775.084.

412 (5) A person commits aggravated inciting a riot if he or
413 she:

414 (a) Incites a riot resulting in great bodily harm to
415 another person not participating in the riot;

416 (b) Incites a riot resulting in property damage in excess
417 of \$5,000; or



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418 (c) Supplies a deadly weapon to another person or teaches
419 another person to prepare a deadly weapon with intent that the
420 deadly weapon be used in a riot for an unlawful purpose.

421
422 A person who commits aggravated inciting a riot commits a felony
423 of the second degree, punishable as provided in s. 775.082, s.
424 775.083, or s. 775.084.

425 (6) Except for a violation of subsection (1), a person
426 arrested for a violation of this section shall be held in
427 custody until brought before the court for admittance to bail in
428 accordance with chapter 903.

429 (7) The State of Florida shall fully reimburse the unit of
430 local government required to hold in custody a person arrested
431 for a violation of this section.

432 (8) This section does not prohibit constitutionally
433 protected activity such as a peaceful protest.

434 Section 16. Section 870.02, Florida Statutes, is amended to
435 read:

436 870.02 Unlawful assemblies.—

437 (1) If three or more persons meet together to commit a
438 breach of the peace, or to do any other unlawful act, each of
439 them ~~commits shall be guilty of~~ a misdemeanor of the second
440 degree, punishable as provided in s. 775.082 or s. 775.083.

441 (2) A person arrested for a violation of this section shall
442 be held in custody until brought before the court for admittance
443 to bail in accordance with chapter 903.

444 (3) The State of Florida shall fully reimburse the unit of
445 local government required to hold in custody a person arrested
446 for a violation of this section.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 43 - 87

and insert:

to be held in custody until first appearance;
requiring the State of Florida to fully reimburse
local governments mandated to hold certain arrestees;
amending s. 784.07, F.S.; requiring a minimum term of
imprisonment for a person convicted of battery on a
law enforcement officer committed in furtherance of a
riot or an aggravated riot; increasing the offense
severity ranking of an assault or battery against
specified persons for the purposes of the Criminal
Punishment Code if committed in furtherance of a riot
or an aggravated riot; amending s. 806.13, F.S.;
prohibiting defacing, injuring, or damaging a memorial
or historic property; providing a penalty; requiring a
court to order restitution for such a violation;
creating s. 806.135, F.S.; defining the terms
"historic property" and "memorial"; prohibiting a
person from destroying or demolishing a memorial or
historic property; providing a penalty; requiring a
court to order restitution for such a violation;
amending s. 810.02, F.S.; reclassifying specified
burglary offenses committed during a riot or an
aggravated riot and facilitated by conditions arising
from the riot; providing a definition; requiring a
person arrested for such a violation to be held in



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476 custody until first appearance; requiring the State of
477 Florida to fully reimburse local governments mandated
478 to hold certain arrestees; amending s. 812.014, F.S.;
479 reclassifying specified theft offenses committed
480 during a riot or an aggravated riot and facilitated by
481 conditions arising from the riot; providing a
482 definition; requiring a person arrested for such a
483 violation to be held in custody until first
484 appearance; requiring the State of Florida to fully
485 reimburse local governments mandated to hold certain
486 arrestees; creating s. 836.115, F.S.; providing
487 definitions; prohibiting cyberintimidation by
488 publication; providing criminal penalties; amending s.
489 870.01, F.S.; prohibiting a person from fighting in a
490 public place; prohibiting a person from willfully
491 participating in a specified violent public
492 disturbance resulting in specified damage or injury;
493 providing an increased penalty for rioting under
494 specified circumstances; prohibiting a person from
495 inciting a riot; providing an increased penalty for
496 inciting a riot under specified circumstances;
497 providing definitions; requiring a person arrested for
498 such a violation to be held in custody until first
499 appearance; providing an exception; requiring the
500 State of Florida to fully reimburse local governments
501 mandated to hold certain arrestees; amending s.
502 870.02, F.S.; requiring a person arrested for an
503 unlawful assembly to be held in custody until first
504 appearance; requiring the State of Florida to fully



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reimburse local governments mandated to hold certain
arrestees; repealing s. 870.03, F.S., relating to