

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 764

INTRODUCER: Senator Simon

SUBJECT: Interference with Sporting or Entertainment Events

DATE: March 17, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 764 creates s. 871.05, F.S., prohibiting the following conduct by a person, other than a covered participant:

- Knowingly entering or remaining unlawfully upon the covered area of a sporting or entertainment event.
- Recklessly, intentionally, negligently, or knowingly subject a covered participant to contact by means of any substance, object, or dangerous instrument during a covered event, or attempt to do so.
- Recklessly, intentionally, negligently, or knowingly place, drop, toss, or hurl any substance, object, or dangerous instrument onto the covered area of an event, or attempt to do so.
- Recklessly, intentionally, negligently, or knowingly strike, slap, kick, or otherwise subject a covered participant to physical contact during a covered event, or attempt to do so.
- Attempting, aiding, abetting, or conspiring with an individual to commit a violation of the above mentioned provisions.

A person who violates the provisions commits a first degree misdemeanor.¹

The bill prohibits a person from realizing any profit or benefit, directly or indirectly, from the violation, from the action found to be in violation, or from notoriety or other circumstances arising from the violation. Additionally, no person shall collude with the violator of this section with the intention of benefitting or profiting from the violation or attempted violation.

Any profit or benefit, financial or otherwise, realized from the violation shall be forfeited and distributed in the manner provided in s. 944.512, F.S., as if the violator or person colluding with the violator was a convicted felon for purposes of that section. Section 944.512, F.S., provides

¹ A first-degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

that the State may place a lien on any proceeds from literary, cinematic or other type of account of crime for which someone is convicted.²

The bill may have a positive indeterminate fiscal impact. See Section V Fiscal Impact Statement.

The bill provides an effective date of October 1, 2023.

II. Present Situation:

In 2022, during the fourth quarter of Super Bowl LV at Raymond James Stadium in Tampa, a person jumped out of the stands and began running across the playing field.³ The person was arrested and charged with trespassing on property other than a structure or conveyance, a first-degree misdemeanor.⁴ The person entered a plea of no contest and was sentenced to probation for 12 months and to perform 100 hours of community service.⁵

A person commits trespass on a property other than a structure or conveyance if he or she, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance:

- As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation as described in s. 810.011, F.S.; or
- If the property is the unenclosed curtilage of a dwelling and the offender enters or remains on such property with the intent to commit an offense thereon, other than the offense of trespass.⁶

Under current law, there is not an enhanced penalty when such a trespass is committed at an athletic competition or entertainment event.

If a spectator at an athletic competition or entertainment event makes physical contact with a participant, official, performer, or security guard, the person commits the crime of battery, a first-degree misdemeanor. A person commits battery if he or she:

- Actually and intentionally touches or strikes another person against the will of the other; or
- Intentionally causes bodily harm to another person.⁷

² Section 944.512(1), F.S., states that a lien prior in dignity to all others shall exist in favor of the state upon royalties, commissions, proceeds of sale, or any other thing of value payable to or accruing to a convicted felon or a person on her or his behalf, including any person to whom the proceeds may be transferred or assigned by gift or otherwise, from any literary, cinematic, or other account of the crime for which she or he was convicted. A conviction shall be defined as a guilty verdict by a jury or judge, or a guilty or nolo contendere plea by the defendant, regardless of adjudication of guilt. The lien shall attach at the time of the conviction in county or circuit court. In the event of an appeal, the funds will be held in the Revolving Escrow Trust Fund of the Department of Legal Affairs until the appeal is resolved.

³ Tom Schad, Florida man who ran on the field at Super Bowl 55 faces trespassing charge, USA Today (Feb. 8, 2021) <https://www.usatoday.com/story/sports/nfl/super-bowl/2021/02/08/super-bowl-streaker-man-ran-field-charged-trespassing/4434479001/> (last visited March 13, 2023).

⁴ A first-degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

⁵ Anita Chabria, The untold tale of the San Diego surfer who enabled last year's Super Bowl streaker, L.A. Times (Feb. 11, 2022), <https://www.latimes.com/california/story/2022-02-11/super-bowl-streaker-decoy-doug-yuri-andrade-where-they-are-now> (last visited March 13, 2023).

⁶ Section 810.09(1)(a), F.S.

⁷ Section 784.03(1)(a), F.S.

Under current law, there is generally not an enhanced penalty when a battery is committed at an athletic competition or entertainment event. However, s. 784.081, F.S., does provide enhanced penalties if a person commits an assault, aggravated assault, battery, or aggravated battery against a sports official⁸ during or immediately following an athletic contest as follows:

- An aggravated battery is reclassified from a second-degree felony⁹ to a first-degree felony.¹⁰
- An aggravated assault is reclassified from a third-degree felony¹¹ to a second-degree felony.
- A battery is reclassified from a first-degree misdemeanor to a third-degree felony.
- An assault is reclassified from a second-degree misdemeanor¹² to a first-degree misdemeanor.

Florida Lien Law

There is no law that prohibits a person who commits the misdemeanor crimes of trespass or battery at an athletic competition or entertainment event from profiting off such behavior, either by being compensated by a third party to commit such offenses or benefitting from the notoriety gained from committing such offenses.

Florida has enacted laws to prevent a convicted felon from profiting off of his or her crime. Section 944.512, F.S., provides that a lien prior in dignity to all others shall exist in favor of the state upon royalties, commissions, proceeds of sale, or any other thing of value payable to or accruing to a *convicted felon* or a person on her or his behalf, including any person to whom the proceeds may be transferred or assigned by gift or otherwise, from any literary, cinematic, or other account of the crime for which she or he was convicted.¹³

The lien attaches at the time of the conviction in county or circuit court. In the event of an appeal, the funds will be held in the Revolving Escrow Trust Fund of the Department of Legal Affairs until the appeal is resolved.

III. Effect of Proposed Changes:

The bill creates s. 871.05, F.S., prohibiting the following conduct by a person, other than a covered participant:

⁸ Section 784.081(1), F.S., A “sports official” is defined as any person who serves as a referee, an umpire, or a linesman, and any person who serves in a similar capacity as a sports official who may be known by another title, which sports official is duly registered by or is a member of a local, state, regional, or national organization that is engaged in part in providing education and training to sports officials.

⁹ A second-degree felony is punishable by up to fifteen years imprisonment and a \$10,000 fine, as provided in ss. 775.082, 775.083, or 775.084, F.S.

¹⁰ A first-degree felony is punishable by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment, as provided in s. 775.082, s. 775.083, or s. 775.083, F.S.

¹¹ A third-degree felony is punishable by a term of imprisonment not to exceed five years and a \$5,000 fine, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

¹² A second-degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine, as provided in s. 775.082 and s. 775.083, F.S.

¹³ Section 944.512(1), F.S., provides that a conviction is defined as a guilty verdict by a jury or judge, or a guilty or nolo contendere plea by the defendant regardless of adjudication of guilt.

- Knowingly entering or remaining unlawfully upon the covered area of a sporting or entertainment event.
- Recklessly, intentionally, negligently, or knowingly subject a covered participant to contact by means of any substance, object, or dangerous instrument during a covered event, or attempt to do so.
- Recklessly, intentionally, negligently, or knowingly place, drop, toss, or hurl any substance, object, or dangerous instrument onto the covered area of an event, or attempt to do so.
- Recklessly, intentionally, negligently, or knowingly strike, slap, kick, or otherwise subject a covered participant to physical contact during a covered event, or attempt to do so.
- Attempting, aiding, abetting, or conspiring with an individual to commit a violation of the provisions.

A person who violates the provisions commits a first degree misdemeanor.

The bill provides multiple definitions. Specifically, in this bill:

- “Covered area” is defined to mean any area designated for use by players, coaches, officials, performers, or personnel administering a covered event that is on, or adjacent to, the area of performance or play during the period from the opening of the venue’s gates to the public to the closing of the gates after the event.
- “Covered event” is defined to mean an athletic competition or practice, including one conducted in a public venue or a live artistic, theatrical, or other entertainment performance event. The duration of such event includes the period from the opening of the venue’s gates to the public to the closing of the gates after the event.
- “Covered participant” is defined to mean an umpire, officiating crewmember, player, coach, manager, groundskeeper, or any other sanctioned participant in a covered event or any artistic or theatrical performer. The term includes event operations and security employees working at a covered event.
- The bill defines “Dangerous instrument” to mean any object, article, or substance that, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or other serious physical injury.
- “Substance” is defined as including, but not limited to any liquid or saliva.

The bill prohibits a person from realizing any profit or benefit, directly or indirectly, from the violation, from the action found to be in violation, or from notoriety or other circumstances arising from the violation. Additionally, no person shall collude with the violator of this section with the intention of benefitting or profiting from the violation or attempted violation.

Any profit or benefit, financial or otherwise, realized from the violation shall be forfeited and distributed in the manner provided in s. 944.512, F.S., as if the violator or person colluding with the violator was a convicted felon for purposes of that section.

The bill provides an effective date of October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Under current law, the conduct prohibited by the bill would likely be prosecuted as a battery or trespass, which are both crimes punishable as a first degree misdemeanor with a maximum fine of \$1,000. The bill creates a new crime with a maximum fine of \$2,500. Thus, offenders who are convicted of interfering with a sporting or entertainment event may be fined a greater amount than is authorized under current law resulting in a positive indeterminate fiscal impact.

Under the bill, any profit or benefit a person receives from interfering with a sporting or entertainment event is subject to seizure and forfeiture under the FCFA. In most cases, proceeds from a forfeiture under the FCFA are retained by the seizing agency. To the extent that persons convicted of interfering with a sporting or entertainment event are profiting from committing the offense and such profits are forfeited under the FCFA, there may be a positive fiscal impact to a seizing agency.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 871.05 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.