

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 Rules

BILL: CS/SB 764

INTRODUCER: Criminal Justice Committee and Senator Simon

SUBJECT: Interference with Sporting or Entertainment Events

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Parker</u>	<u>Twogood</u>	<u>RC</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 764 creates s. 871.05, F.S., to prohibit certain conduct at a sporting or entertainment event. Specifically, a person may not:

- Intentionally touch or strike a covered participant during a covered event against the will of the covered participant, or intentionally cause bodily harm to a covered participant during a covered event; or
- Willfully enter or remain in a restricted area during a covered event without being authorized, licensed, or invited to enter or remain in such a restricted area.

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

The bill prohibits a person from soliciting another person to violate this section by offering money or any other thing of value to another to engage in specific conduct that constitutes such a violation. A person who solicits another person to violate this section commits a third degree felony.

A person convicted of a violation of this section may not realize any profit or benefit, directly or indirectly, from committing such a violation. Any profit or benefit payable to or accruing to a person convicted of a violation of this section is subject to seizure and forfeiture as provided in the Florida Contraband Forfeiture Act.

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.

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.² The person was arrested and charged with trespassing on property other than a structure or conveyance, a first-degree misdemeanor.³ The person entered a plea of no contest and was sentenced to probation for 12 months and to perform 100 hours of community service.⁴

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.⁵

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.⁶

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 official⁷ during or immediately following an athletic contest as follows:

² 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).

³ 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.

⁴ 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).

⁵ Section 810.09(1)(a), F.S.

⁶ Section 784.03(1)(a), F.S.

⁷ 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.

- An aggravated battery is reclassified from a second-degree felony⁸ to a first-degree felony.⁹
- An aggravated assault is reclassified from a third-degree felony¹⁰ 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 misdemeanor¹¹ 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.¹²

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.

Florida Contraband Forfeiture Act

The Florida Contraband Forfeiture Act, (FCFA), prescribes procedures and guidelines for law enforcement agencies to follow when seizing, forfeiting, and disposing of property that is authorized to be seized and forfeited under the FCFA. Under s. 932.703, F.S., any contraband article,¹³ vessel, motor vehicle, aircraft, other personal property, or real property used in violation of the FCFA, or in, upon, or by means of which any violation of the act has taken or is taking place, may be seized and forfeited subject to the provisions of the FCFA.¹⁴

⁸ 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.

⁹ 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.

¹⁰ 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.

¹¹ 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.

¹² 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.

¹³ Section 932.701(2)(a)5. and 6., F.S., states that “Contraband article” means, in part, any real property or personal property which was used or attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, whether or not comprising an element of the felony, or which is acquired by proceeds obtained as a result of a violation of the act.

¹⁴ Section 932.703(1), F.S.

Under s. 932.7055, F.S., if a final judgment of forfeiture is entered, a seizing agency may do any of the following:

- Retain the property for the seizing agency's use;
- Sell the property at a public auction or by sealed bid to the highest bidder; or
- Salvage, trade, or transfer the property to any public or nonprofit organization.¹⁵

If a seizing agency is a county or municipal law enforcement agency, the proceeds which remain after all liens and debts against the forfeited property are paid are deposited into a special law enforcement trust fund and may be used to fund school resource officers, crime prevention, safe neighborhood, drug abuse education, and prevention programs, or other law enforcement purposes, including defraying the cost of protracted or complex investigations, providing additional equipment or expertise, purchasing automated external defibrillators for law enforcement vehicles, and providing matching funds to obtain federal grants.¹⁶ Proceeds from a forfeiture may not be used to meet normal operating expenses of a law enforcement agency.¹⁷

Generally, if the seizing agency is a state agency, the remaining proceeds from a forfeiture are deposited into the General Revenue Fund.¹⁸ However, some agencies have a trust fund specifically designated to receive the proceeds from a forfeiture, including the Florida Department of Law Enforcement, a state attorney's office, a school board security agency that employs law enforcement officers, and the State University System police departments.¹⁹

III. Effect of Proposed Changes:

The bill creates s. 871.05, F.S., to prohibit certain conduct at a sporting or entertainment event. Specifically, a person may not:

- Intentionally touch or strike a covered participant during a covered event against the will of the covered participant, or intentionally cause bodily harm to a covered participant during a covered event; or
- Willfully enter or remain in a restricted area during a covered event without being authorized, licensed, or invited to enter or remain in such a restricted area.

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

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

- "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 time when a venue is held open to the public for such an event until the end of the athletic competition or performance event.
- "Covered participant" means an umpire, officiating crewmember, player, coach, manager, groundskeeper, or any artistic, theatrical, or other performer or sanctioned participant in the

¹⁵ Section 932.7055(1), F.S.

¹⁶ Section 932.7055(5)(a), F.S.

¹⁷ Section 932.7055(5), F.S.

¹⁸ Section 932.7055(6), F.S.

¹⁹ *Id.*

covered event. The term includes event operations and security employees working at a covered event.

- The bill defines “Restricted area” to mean any area designated for use by players, coaches, officials, performers, or other personnel administering a covered event that is one, or adjacent to, the area or performance.

The bill prohibits a person from soliciting another person to violate this section by offering money or any other thing of value to another to engage in specific conduct that constitutes such a violation. A person who solicits another person to violate this section commits a third degree felony.

A person convicted of a violation of this section may not realize any profit or benefit, directly or indirectly, from committing such a violation. Any profit or benefit payable to or accruing to a person convicted of a violation of this section is subject to seizure and forfeiture as provided in the Florida Contraband Forfeiture Act.

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 Substantial Changes:**

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

CS by Criminal Justice on March 20, 2023:

The committee substitute:

- Changes the term “covered area” to “restricted area.”
- Limits the duration of a “covered event” to the time when a venue is held open to the public.
- Revises prohibited conduct by referencing the elements of battery and trespass as provided in current law. Specifically, by providing that a person is prohibited from:
 - Intentionally touching or striking a covered participant during a covered event against the will of the covered participant, or intentionally causing bodily harm to a covered participant during a covered event.
 - Willfully entering or remaining in a restricted area during a covered event without being authorized, licensed, or invited to enter or remain in such a restricted area.
- Creates a third degree felony if a person solicits another person to engage in prohibited conduct by offering money or any other thing of value.

- Makes any profit or benefit payable to or accruing to a person who violates the provisions of the bill subject to seizure and forfeiture as provided in the Florida Contraband Forfeiture Act.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
