

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 254

INTRODUCER: Senator Bradley

SUBJECT: Indecent Exposure

DATE: March 28, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Pre-meeting
2.			ACJ	
3.			AP	

I. Summary:

SB 254 provides that it is a third degree felony to commit a second or subsequent violation of s. 800.03, F.S. Section 800.03, F.S., punishes:

- Exposing or exhibiting one’s sexual organs in public or on the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or indecent manner; or
- Being naked in public except in any place provided or set apart for that purpose.

A first violation of s. 800.03, F.S., is a first degree misdemeanor (the current penalty for violations of s. 800.03, F.S.).

The bill also authorizes a warrantless arrest when the law enforcement officer has probable cause to believe that the person has committed a violation of s. 800.03, F.S.

II. Present Situation:

Indecent Exposure

Section 800.03, F.S., provides that it is a first degree misdemeanor to:

- Expose or exhibit one’s sexual organs in public or on the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or indecent manner;¹ or
- Be naked in public except in any place provided or set apart for that purpose.

¹ The standard jury instructions provide that the State must prove that the exhibition or exposure be done in a “vulgar, indecent, lewd, or lascivious manner.” Fla. Std. Jury Instr. (Crim.) 11.9. The instruction states all of the words mean the same thing, i.e., “lust or a wicked, lustful, unchaste, licentious, or sensual intent on the part of the person doing the act.” *Id.*

Warrantless Arrest

Section 901.15, F.S., provides that a law enforcement officer may arrest a person without a warrant in any of the following circumstances:

- The person has committed a felony or misdemeanor or violated a municipal or county ordinance in the presence of the officer.
- A felony has been committed and the officer reasonably believes that the person committed it.
- The officer reasonably believes that a felony has been or is being committed and that the person to be arrested has committed or is committing it.
- A warrant for the arrest has been issued and is held by another peace officer for execution.
- A violation of ch. 316, F.S. (state uniform traffic control), has been committed in the presence of the officer.
- There is probable cause to believe that the person has violated s. 790.233, F.S. (possession of firearms by a convicted felon), s. 741.31, F.S. (possession of prohibited ammunition), a protective injunction order, or a specified foreign protection order.
- There is probable cause to believe that the person has committed an act of domestic violence or dating violence.
- There is probable cause to believe that the person has committed child abuse or has violated s. 787.025, F.S. (luring or enticing a child for unlawful purposes).
- There is probable cause to believe that the person has committed:
 - Battery;
 - Criminal mischief or a graffiti-related offense; or
 - A violation of a safety zone, security zone, regulated navigation area, or naval vessel protection zone.
- The officer has determined that he or she has probable cause to believe that a misdemeanor has been committed, based upon a signed affidavit provided to the officer by a federal law enforcement officer or military law enforcement officer, when the misdemeanor was committed in the presence of the federal officer on federal military property over which the state has maintained exclusive jurisdiction for such a misdemeanor.
- A law enforcement officer of the Florida National Guard has probable cause to believe a felony was committed on state military property or when a felony or misdemeanor was committed in his or her presence on that property.
- The officer is employed by the state as a law enforcement officer or part-time law enforcement officer and:
 - The officer reasonably believes that a felony involving violence has been or is being committed and that the person to be arrested has committed or is committing the felony;
 - While engaged in the exercise of his or her state law enforcement duties, the officer reasonably believes that a felony has been or is being committed; or
 - A felony warrant for the arrest has been issued and is being held for execution by another peace officer.
- There is probable cause to believe that the person has violated a condition of pretrial release when the original arrest was for an act of domestic violence or dating violence.
- There is probable cause to believe that the person has committed trespass in a secure area of an airport when signs are posted in conspicuous areas of the airport which notify that

unauthorized entry into such areas constitutes a trespass and specify the methods for gaining authorized access to those areas.

- There is probable cause to believe that the person has committed assault upon a law enforcement officer, a firefighter, an emergency medical care provider, a public transit employee or agent, or other specified officers, or has committed assault or battery upon any employee of a facility designated by the Department of Children and Families to receive involuntary patients for specified purposes.

III. Effect of Proposed Changes:

The bill amends s. 800.03, F.S., to provide that it is a third degree felony to commit a second or subsequent violation of s. 800.03, F.S. Section 800.03, F.S., punishes:

- Exposing or exhibiting one's sexual organs in public or on the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or indecent manner; or
- Being naked in public except in any place provided or set apart for that purpose.

A first violation of s. 800.03, F.S., is a first degree misdemeanor (the current penalty for violations of s. 800.03, F.S.).

The bill also amends s. 901.15, F.S., to authorize a warrantless arrest when the law enforcement officer has probable cause to believe that the person has committed a violation of s. 800.03, F.S.

The effective date of the bill is October 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates that bill will have an insignificant prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 800.03 and 901.15.

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.