

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 319 Interference With Sporting or Entertainment Events

**SPONSOR(S):** Criminal Justice Subcommittee, Yarkosky and others

**TIED BILLS:** IDEN./SIM. **BILLS:** SB 764

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	16 Y, 0 N, As CS	Padgett	Hall
2) Judiciary Committee	20 Y, 0 N	Padgett	Kramer

### SUMMARY ANALYSIS

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. The person was arrested and charged with trespassing on property other than a structure or conveyance, a first degree misdemeanor. The person entered a plea of no contest, and was sentenced to probation for 12 months to perform 100 hours of community service. Under current law, there is generally not an enhanced penalty when such a trespass, or any other criminal offense, is committed at an athletic competition or entertainment event.

CS/HB 319 creates s. 871.05, F.S., to prohibit a person 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; or
- 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.

A violation of any of these provisions is punishable as a first degree misdemeanor and a maximum fine of \$2,500. A person who solicits another person to violate any of these provisions by offering money or any other thing of value to such person to engage in specific conduct that constitutes such a violation commits a third degree felony.

The bill prohibits a person from realizing any profit or benefit, whether directly or indirectly, from any violation, and provides any such profit or benefit payable to or accruing to a person convicted of violating the provisions of the bill is subject to seizure and forfeiture under the Florida Contraband Forfeiture Act (FCFA).

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 budget 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.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

###### *Disruption of Athletic Competitions or Entertainment Events*

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.<sup>1</sup> The person was arrested and charged with trespassing on property other than a structure or conveyance, a first degree misdemeanor.<sup>2</sup> The person entered a plea of no contest, and was sentenced to probation for 12 months to perform 100 hours of community service.<sup>3</sup>

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.<sup>4</sup>

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.

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 official<sup>5</sup> during or immediately following an athletic contest as follows:

- An aggravated battery is reclassified from a second degree felony<sup>6</sup> to a first degree felony.<sup>7</sup>
- An aggravated assault is reclassified from a third degree felony<sup>8</sup> 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 misdemeanor<sup>9</sup> to a first degree misdemeanor.

###### *Florida Contraband Forfeiture Act*

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<sup>1</sup> 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 Mar. 14, 2023).

<sup>2</sup> A first degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. Ss. 775.082 and 775.083, F.S.

<sup>3</sup> 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 Mar. 14, 2023).

<sup>4</sup> S. 810.09(1)(a), F.S.

<sup>5</sup> 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.

<sup>6</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Ss. 775.082 and 775.083, F.S.

<sup>7</sup> A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Ss. 775.082 and 775.083, F.S.

<sup>8</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Ss. 775.082 and 775.083, F.S.

<sup>9</sup> A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine. Ss. 775.082 and 775.083, F.S.

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,<sup>10</sup> 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.<sup>11</sup>

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.<sup>12</sup>

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.<sup>13</sup> Proceeds from a forfeiture may not be used to meet normal operating expenses of a law enforcement agency.<sup>14</sup>

Generally, if the seizing agency is a state agency, the remaining proceeds from a forfeiture are deposited into the General Revenue Fund.<sup>15</sup> 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.<sup>16</sup>

Under current law, a person who commits the offenses of trespass or battery at an athletic competition or entertainment event is not prohibited 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.

### **Effect of Proposed Changes**

CS/HB 319 creates s. 871.05, F.S., to prohibit a person 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; or
- 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.

A violation of any of these provisions is punishable as a first degree misdemeanor and a maximum fine of \$2,500. A person who solicits another person to violate any of these provisions by offering money or any other thing of value to such person to engage in specific conduct that constitutes such a violation commits a third degree felony.

The bill defines the following terms:

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<sup>10</sup> "Contraband article" includes but is not limited to 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. S. 932.701(2)(a)5. and 6., F.S.

<sup>11</sup> S. 932.703(1), F.S.

<sup>12</sup> S. 932.7055(1), F.S.

<sup>13</sup> S. 932.7055(5)(a), F.S.

<sup>14</sup> S. 932.7055(5), F.S.

<sup>15</sup> S. 932.7055(6), F.S.

<sup>16</sup> *Id.*

- "Restricted area" means any area designated for use by players, coaches, officials, performers, or other personnel administering a covered event that is on, or adjacent to, the area of play or performance.
- "Covered event" means 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 crew member, player, coach, manager, groundskeeper, or any artistic, theatrical, or other performer or sanctioned participant in a covered event. The term includes event operations and security employees working at a covered event.

The bill prohibits a person from realizing any profit or benefit, whether directly or indirectly, from any violation, and provides any such profit or benefit payable to or accruing to a person convicted of violating the provisions of the bill is subject to seizure and forfeiture under the Florida Contraband Forfeiture Act.

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

#### B. SECTION DIRECTORY:

**Section 1:** Creates s. 871.05, F.S., relating to interference with a sporting or entertainment event.

**Section 2:** Provides an effective date of October 1, 2023.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

See Fiscal Comments.

##### 2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

See Fiscal Comments.

##### 2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill prohibits a person from profiting or benefitting from violating the provisions of the bill and provides that any such proceeds are subject to seizure and forfeiture under the FCFA. Thus, a person who is convicted of interfering with a sporting or entertainment event will no longer be able to profit or benefit from such behavior.

#### D. FISCAL COMMENTS:

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 budget impact on entities to which the fines are distributed.

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.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

#### **B. RULE-MAKING AUTHORITY:**

Not applicable.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On February 23, 2023, the Criminal Justice Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Changed the term “covered area” to “restricted area.”
- Limited the duration of a “covered event” to 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.
- Clarified the conduct prohibited by the bill by referencing the elements of battery in s. 784.03, F.S., and trespass in ss. 810.08 and 810.09, F.S., provided under current law.
- Created a third degree felony if a person solicits another person to engage in the conduct prohibited by the bill by offering money or any other thing of value.
- Made any profit or benefit payable to or accruing to a person who violates the provisions of the bill subject to forfeiture as provided in the FCFA.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.