

Combating Violence, Disorder and Looting and Law Enforcement Protection Act 9/23/20

Ch. 870 F.S. Affrays; Riots; Routs; Unlawful Assemblies

Ch. 870 F.S. currently includes prohibitions of:

- unlawful assemblies (3 or more persons breaching the peace or committing any unlawful act) as a 2nd degree misdemeanor
- riots (unlawful assembly to pull down or destroy a dwelling or vessel), or encouraging a riot, as a 3rd degree felony

Proposed language:

870.001 Definitions

For the purposes of this section:

- (1) “violent or disorderly assembly” means the gathering of seven or more persons resulting in conduct which:
 - (a) creates an immediate danger of damage to property or injury to persons;
 - (b) substantially obstructs law enforcement or other governmental functions or services; or
 - (c) by force, threat of force, or physical action deprives any person of a legal right or disturbs any person in the enjoyment of a legal right.
- (2) “harass” means to engage in conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.
- (3) “intimidate” means to frighten or threaten someone for the purpose of coercing that person to take some action.
- (4) “looting” means committing burglary within 500 feet of a violent or disorderly assembly.

870.25 Violent or disorderly assemblies

- (1) Anyone who acts with an assembly of at least six others, knowing that the assembly’s conduct
 - (a) creates an immediate danger of damage to property or injury to persons;
 - (b) substantially obstructs law enforcement or other governmental functions or services; or
 - (c) by force, threat of force, or physical action deprives any person of a legal right or disturbs any person in the enjoyment of a legal right
commits a felony in the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 - (d) It is a defense to prosecution under this section that the assembly was at first lawful and when one of those assembled manifested an intent to engage in conduct enumerated in s. 870.001(1), the actor retired from the assembly.
- (2) If a person who violates subsection (1) travelled to Florida with the intent to participate in a violent or disorderly assembly, that person commits a felony in the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

870.015 Obstructing Roadways

- (1) A person may not obstruct or interfere with the regular flow of vehicular traffic on a public road, street or highway during a protest or demonstration for which a public

assembly permit has not been issued by a county or municipality. A person who violates this section commits a felony in the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

- (2) A person may not obstruct or interfere with the regular flow of vehicular traffic on a public road, street or highway while participating in a violent or disorderly assembly. A person who violates this section commits a misdemeanor in the first degree, punishable as provided in s. 775.082 or s. 775.083.
- (3) A motor vehicle operator who unintentionally causes injury or death to a person who obstructs or interferes with the regular flow of vehicular traffic in violation of subsection (1) or (2) is not liable for such injury or death.

870.016 Throwing Objects

- (1) Any person who throws an object at another with the intent or effect of harming the target and does so while participating in a violent or disorderly assembly commits a misdemeanor in the first degree, punishable as provided in s. 775.082 or s. 775.083. If that objects hits an individual, the person who threw the object commits a felony in the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (2) Any person who throws an object at an individual listed in s. 784.07(2) and defined in s. 784.07(1) with the intent or effect of harming that individual and does so while participating in a violent or disorderly assembly commits a felony in the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If that objects hits an individual listed in s. 784.07(2) and defined in s. 784.07(1), the person who threw the object commits a felony in the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Alternative to 870.016 Throwing Objects. This would add extra enhancements for all assaults and batteries against LEOs (and others as defined in the statute), not just thrown objects.

784.07 Assault or battery of law enforcement officers

- (4) Whenever a person is charged with an assault or battery and whose charged offense is enhanced under subsection (2) of this section and who committed that assault or battery while participating in a violent or disorderly assembly, the offense for which the person is charged will be further reclassified as follows:
 - (a) in the case of an assault, from a misdemeanor in the first degree, to a felony in the third degree;
 - (b) in the case of a battery, from a felony in the third degree, to a felony in the second degree;
 - (c) in the case of an aggravated assault, from a felony in the second degree, to a felony in the first degree;
 - (d) in the case of an aggravated battery, from a felony in the first degree to a life felony.

870.017 Damage to Property

- (1) Any person who, while participating in a violent or disorderly assembly, demolishes, pulls down, destroys, or defaces public property, including but not limited to a monument or statue, commits a felony in the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

- (2) Any person who violates s. 872.02(2) while participating in a violent or disorderly assembly commits a felony in the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

870.018 Intimidation and Harassment

Any person who, while participating in a violent or disorderly assembly, intimidates or harasses individuals present at a public accommodation as defined in s. 760.02(11) and not participating in the violent or disorderly assembly commits a misdemeanor in the first degree, punishable as provided in s. 775.082 or s. 775.083.

Ch. 895 Offenses Concerning Racketeering and Illegal Debts (also known as RICO)
Florida's RICO statute defines racketeering activity to be one of fifty existing crimes.

Proposed language:

895.02 – Definitions.

(8) “Racketeering activity” means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by petition, indictment, or information under the following provisions of the Florida Statutes:

51. Sections 870.025 and 870.03

Other Relevant Florida Statutes

443.101 Disqualification for benefits.

(13) An individual that has been convicted of or pled guilty or nolo contendere to any criminal violation of chapter 870, except s. 870.02, is ineligible for reemployment assistance benefits.

112.3171 – Participating in a riot or violent or disorderly assembly.

Any state or local government employee found guilty of participating in a riot or violent or disorderly assembly may not maintain employment with any state or local government entity.

775.0878 – Participating in a riot or violent or disorderly assembly; minimum mandatories.

- (1) In any case in which a person has been convicted of or has pled nolo contendere or guilty to violating any part of chapter 870, except for s. 870.01, the following minimum mandatory sentences apply:
- a. if the offense is a second degree misdemeanor, the defendant must be sentenced to at least 15 days in county jail;
 - b. if the offense is a first degree misdemeanor, the defendant must be sentenced to at least 90 days in county jail;
 - c. if the offense is a third degree felony, the defendant must be sentenced to at least 1 year in prison;
 - d. if the offense is a second degree felony, the defendant must be sentenced to at least 5 years in prison;
 - e. if the offense is a first degree felony, the defendant must be sentenced to at least 10 years in prison; and
 - f. if the offense is a life felony, the defendant must be sentenced to at least 20 years in prison.

(2) If the minimum mandatory terms of imprisonment imposed pursuant to this section exceed the maximum sentences authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, then the mandatory minimum sentence must be imposed. If the mandatory minimum terms of imprisonment pursuant to this section are less than the sentences that could be imposed as authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, then the sentence imposed by the court must include the mandatory minimum term of imprisonment as required in this section.

903.046 Purpose of and criteria for bail determination.

(n) Whether the crime charged is a violation of chapter 870 or alleged to be subject to enhanced punishment under chapter 775.0878. If any such violation is charged against a defendant or if the defendant is charged with a crime that is alleged to be subject to such enhancement or reclassification, he or she is not eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.

268.028 Waiver of sovereign immunity in tort actions . . .

(15)(a) No action may be brought against the state or any of its agencies or subdivisions by anyone who unlawfully participates in a riot, unlawful assembly, public demonstration, mob violence, or civil disobedience if the claim arises out of such riot, unlawful assembly, public demonstration, mob violence, or civil disobedience. Nothing in this act shall abridge traditional immunities pertaining to statements made in court.

(b) Local governments have a duty of reasonable care to protect individuals present within their borders from being harmed or suffering property damage caused by participants in a riot or violent or disorderly assembly. A person who was the victim of a crime defined in ch. 870 may recover from a local government pursuant to this chapter for damages that resulted from the gross negligence of that local government in policing a riot or violent or disorderly assembly.

166.241 Fiscal years, budgets, and budget amendments.

(5) Each October 15, the municipality must certify to each state agency through which it receives any state funds that there has been no disproportionate funding reductions to the municipality's law enforcement agencies. The certification must include a statement that any reduction in funding or proposed funding is a result of reduced revenue collection and is proportionate to that reduction in revenue. A reduction in law enforcement funding is proportionate if the portion of the local government's total budget allocated to law enforcement agencies, expressed as a percentage, remains within three percentage points of the percentage decrease in total revenue from the previous fiscal year to the current fiscal year. A municipality that has disproportionately reduced its law enforcement funding is not eligible to receive state funds.

129.03 Preparation and adoption of budget.

(3)(e) Each October 15, the county must certify to each state agency through which it receives any state funds that there has been no disproportionate funding reductions to the county's law enforcement agencies. The certification must include a statement that any reduction in funding or proposed funding is a result of reduced revenue collection and is proportionate to that reduction in revenue. A reduction in law enforcement funding is proportionate if the portion of the county's total budget allocated to law enforcement

agencies, expressed as a percentage, remains within three percentage points of the percentage decrease in total revenue from the previous fiscal year to the current fiscal year. A county that has disproportionately reduced its law enforcement funding is not eligible to receive state funds.

Stand Your Ground Amendments

776.08 Forcible felony.

. . . device or bomb; looting; criminal mischief that results in the interruption or impairment of a business operation; arson that results in the interruption or impairment of a business operation; and any other felony