

By the Committee on Criminal Justice; and Senator Smith

307-2071-02

1                                   A bill to be entitled  
2           An act relating to the offense of prostitution;  
3           amending s. 796.07, F.S.; providing that a  
4           third or subsequent violation of provisions  
5           prohibiting prostitution, certain activities  
6           related to prostitution, or the purchase of  
7           services from a person engaged in prostitution  
8           is a third-degree felony rather than a  
9           second-degree misdemeanor; providing that a  
10          person charged with such offense may be offered  
11          admission to a pretrial intervention program or  
12          substance-abuse treatment program; providing  
13          that a motor vehicle of a person convicted of a  
14          violation of the provisions prohibiting  
15          prostitution will be subject to forfeiture  
16          under the Florida Contraband Forfeiture Act;  
17          amending s. 948.08, F.S., relating to the  
18          pretrial intervention program; conforming  
19          provisions to changes made by the act;  
20          providing an effective date.

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22 Be It Enacted by the Legislature of the State of Florida:  
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24           Section 1. Section 796.07, Florida Statutes, is  
25 amended to read:

26           796.07 Prohibiting prostitution, etc.; evidence;  
27 penalties; definitions.--

28           (1) As used in this section:

29           (a) "Prostitution" means the giving or receiving of  
30 the body for sexual activity for hire but excludes sexual  
31 activity between spouses.

1 (b) "Lewdness" means any indecent or obscene act.

2 (c) "Assignment" means the making of any appointment  
3 or engagement for prostitution or lewdness, or any act in  
4 furtherance of such appointment or engagement.

5 (d) "Sexual activity" means oral, anal, or vaginal  
6 penetration by, or union with, the sexual organ of another;  
7 anal or vaginal penetration of another by any other object; or  
8 the handling or fondling of the sexual organ of another for  
9 the purpose of masturbation; however, the term does not  
10 include acts done for bona fide medical purposes.

11 (2) It is unlawful:

12 (a) To own, establish, maintain, or operate any place,  
13 structure, building, or conveyance for the purpose of  
14 lewdness, assignation, or prostitution.

15 (b) To offer, or to offer or agree to secure, another  
16 for the purpose of prostitution or for any other lewd or  
17 indecent act.

18 (c) To receive, or to offer or agree to receive, any  
19 person into any place, structure, building, or conveyance for  
20 the purpose of prostitution, lewdness, or assignation, or to  
21 permit any person to remain there for such purpose.

22 (d) To direct, take, or transport, or to offer or  
23 agree to direct, take, or transport, any person to any place,  
24 structure, or building, or to any other person, with knowledge  
25 or reasonable cause to believe that the purpose of such  
26 directing, taking, or transporting is prostitution, lewdness,  
27 or assignation.

28 (e) To offer to commit, or to commit, or to engage in,  
29 prostitution, lewdness, or assignation.

30 (f) To solicit, induce, entice, or procure another to  
31 commit prostitution, lewdness, or assignation.

1 (g) To reside in, enter, or remain in, any place,  
2 structure, or building, or to enter or remain in any  
3 conveyance, for the purpose of prostitution, lewdness, or  
4 assignation.

5 (h) To aid, abet, or participate in any of the acts or  
6 things enumerated in this subsection.

7 (i) To purchase the services of any person engaged in  
8 prostitution.

9 (3) In the trial of a person charged with a violation  
10 of this section, testimony concerning the reputation of any  
11 place, structure, building, or conveyance involved in the  
12 charge, testimony concerning the reputation of any person  
13 residing in, operating, or frequenting such place, structure,  
14 building, or conveyance, and testimony concerning the  
15 reputation of the defendant is admissible in evidence in  
16 support of the charge.

17 (4) A person who violates any provision of this  
18 section commits:

19 (a) A misdemeanor of the second degree for a first  
20 violation, punishable as provided in s. 775.082 or s. 775.083.

21 (b) A misdemeanor of the first degree for a second ~~or~~  
22 ~~subsequent~~ violation, punishable as provided in s. 775.082 or  
23 s. 775.083.

24 (c) A felony of the third degree for a third or  
25 subsequent violation, punishable as provided in s. 775.082, s.  
26 775.083, or s. 775.084.

27 (5) Any motor vehicle of a person convicted of a  
28 violation of chapter 796 will be subject to seizure and  
29 forfeiture as provided in s. 932.701.

30 (6) A person who is charged with a third or subsequent  
31 violation of this section may be offered admission to a

1 pretrial intervention program or a substance-abuse treatment  
2 program as provided in s. 948.08.

3 Section 2. Paragraph (a) of subsection (6) of section  
4 948.08, Florida Statutes, is amended to read:

5 948.08 Pretrial intervention program.--

6 (6)(a) Notwithstanding any provision of this section,  
7 a person who is charged with a felony of the second or third  
8 degree for purchase or possession of a controlled substance  
9 under chapter 893, prostitution, tampering with evidence,  
10 solicitation for purchase of a controlled substance, or  
11 obtaining a prescription by fraud; who has not been charged  
12 with a crime involving violence, including, but not limited  
13 to, murder, sexual battery, robbery, carjacking, home-invasion  
14 robbery, or any other crime involving violence; and who has  
15 not previously been convicted of a felony nor been admitted to  
16 a felony pretrial program referred to in this section is  
17 eligible for admission into a pretrial substance abuse  
18 education and treatment intervention program approved by the  
19 chief judge of the circuit, for a period of not less than 1  
20 year in duration, upon motion of either party or the court's  
21 own motion, except:

22 1. If a defendant was previously offered admission to  
23 a pretrial substance abuse education and treatment  
24 intervention program at any time prior to trial and the  
25 defendant rejected that offer on the record, then the court or  
26 the state attorney may deny the defendant's admission to such  
27 a program.

28 2. If the state attorney believes that the facts and  
29 circumstances of the case suggest the defendant's involvement  
30 in the dealing and selling of controlled substances, the court  
31 shall hold a preadmission hearing. If the state attorney

1 establishes, by a preponderance of the evidence at such  
2 hearing, that the defendant was involved in the dealing or  
3 selling of controlled substances, the court shall deny the  
4 defendant's admission into a pretrial intervention program.

5 Section 3. This act shall take effect July 1, 2002.

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7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
8 COMMITTEE SUBSTITUTE FOR  
9 Senate Bill 376

- 10 - Allows persons charged with a third or subsequent  
11 prostitution offense to be offered admission into a  
12 pretrial intervention program or a substance-abuse  
13 treatment program.  
14 - Subjects the motor vehicle of a person convicted of a  
15 violation of the prostitution statute to forfeiture as  
16 provided under the Contraband Forfeiture Act.  
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