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DATE: February 13, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
CRIMINAL JUSTICE APPROPRIATIONS
ANALYSIS**

BILL #: HB 415
RELATING TO: Prostitution/Substance Abuse
SPONSOR(S): Representative Farkas
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIME PREVENTION CORRECTIONS & SAFETY YEAS 6 NAYS 3
 - (2) CRIMINAL JUSTICE APPROPRIATIONS
 - (3) COUNCIL FOR HEALTHY COMMUNITIES
 - (4)
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

HB 415 amends § 796.07, F.S., to require a person who has been convicted two or more times of a prostitution related offense to be screened for substance abuse. Additionally, it provides increased penalties for failure of such offenders to complete a substance abuse treatment program. This bill takes effect October 1, 2002.

A traveling amendment with the bill, strikes everything after the enacting clause and creates a two (2) year community-based prostitution intervention program in Pinellas County to be called Project HOPE (Healthy Options Promoting Esteem). Any person convicted two or more times under s. 796.07, F.S., shall undergo screening and evaluation for substance abuse and enter into this program if recommended. The amendment has a fiscal impact of \$180,000 on general revenue and changes the effective date to upon becoming law.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

B. PRESENT SITUATION:

Section 796.07(4) provides programmed penalties for violations of specified forms of prostitution and prostitution related offenses. These offenses include persons who transport those engaged in prostitution, persons who purchase services of persons engaged in prostitution and persons who house prostitution. Under current law there are no enhanced penalties for failure to report to or complete a substance abuse treatment program. The penalties provided for under current law are a misdemeanor in the 2nd degree for the first violation and a misdemeanor in the first degree for a second violation.

C. EFFECT OF PROPOSED CHANGES:

The bill requires a person who has been convicted two (2) or more times of prostitution related offenses to be screened and evaluated for substance abuse prior to sentencing. If recommended, that person would then be required to enter into an "authorized" substance abuse program.

The bill additionally provides that a person who fails to report and complete the substance abuse treatment after a second conviction must be sentenced "to a term of imprisonment at the discretion of the judge." The bill further provides that a person who fails to report for and complete the substance abuse treatment program upon a third or subsequent violation shall be sentenced to the "maximum term of imprisonment." The maximum sentence for a first-degree misdemeanor is one (1) year in jail.

Please note that there is a strike-all amendment traveling with the bill which is described in the summary and Section V. Please also see the fiscal comments to note its impact.

D. SECTION-BY-SECTION ANALYSIS:

See Section II.C., and Section V.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. See fiscal comments.

2. Expenditures:

The underlying bill has an indeterminate fiscal impact. The traveling amendment does have a fiscal impact as it requires an appropriation of \$180,000 to fund Project HOPE. See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. See fiscal comments.

2. Expenditures:

Indeterminate. See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The underlying bill does not specify who will pay for the required drug screening, evaluation and treatment, which could be an unfunded mandate on local governments. The bill requires that an offender be sentenced to one (1) year in county jail for failure to complete drug treatment after a third conviction for a prostitution offense. This requirement will have an indeterminate fiscal impact on counties. The Criminal Justice Estimating Conference has not met to consider the prison bed impact of this bill on the Department of Corrections but it is not expected to be significant.

A strike everything amendment traveling with HB 415, creates a 2-year, community-based pilot program (Project HOPE) in Pinellas County specifying participation for those convicted two or more times of prostitution related offenses as defined in s. 796.07, F.S. This provision has an \$180,000 fiscal impact on General Revenue.

The amendment further stipulates that if a person is convicted for the first or second time under s. 796.07, F.S., the individual may choose to complete a six-class rehabilitation educational program and pay \$350 in fees. There is an indeterminate fiscal impact on local governments because there is no way to determine the numbers of people who will enroll in these classes or if the fees collected could offset the costs of adjudication.

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill is exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

This bill requires a person who is convicted of prostitution to be screened and evaluated for drugs. The bill does not specify who will pay for the screening or evaluation. The bill also requires a person to enter into an "authorized" substance abuse treatment program if recommended. Such treatment programs are not defined in the bill or in statute. It also does not specify who will pay for the treatment. Further, the section apparently applies not just to prostitutes but also to those who hire a prostitute.

The Florida Sheriffs Association is not supportive of the bill stating that "[i]t will prove to be an extremely expensive unfunded mandate on local government."

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The adopted amendment effectively rewrites the bill, creating a two (2) year community-based prostitution intervention program in Pinellas County to be called Project HOPE (Healthy Options Promoting Esteem). Its effective date is upon becoming law.

VI. SIGNATURES:

COMMITTEE ON CRIME PREVENTION CORRECTIONS & SAFETY:

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