

STORAGE NAME: h0415.cpcs.doc
DATE: January 15, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIME PREVENTION CORRECTIONS & SAFETY
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
- (2) CRIMINAL JUSTICE APPROPRIATIONS
- (3) COUNCIL FOR HEALTHY COMMUNITIES
- (4)
- (5)

I. SUMMARY:

HB 415 amends § 796.07, F.S., to provide increased penalties for certain offenders who fail to report for and complete a required substance abuse treatment program. The bill also requires certain offenders to be screened for substance abuse and if such screening produces a positive result that such offender attend a substance abuse treatment program.

This bill takes effect October 1, 2002.

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 2nd 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.

D. SECTION-BY-SECTION ANALYSIS:

See Section II.C.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See fiscal comments.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See fiscal comments.

2. Expenditures:

See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

The bill does not specify who will pay for the required drug screening, evaluation and treatment. The bill requires that an offender be sentenced to one (1) year in county jail for failure to complete drug treatment after a 3rd conviction for a prostitution offense. This requirement will have an indeterminate 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. Staff does not expect the bill to have a significant prison bed impact on the department.

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:

N/A

B. RULE-MAKING AUTHORITY:

N/A

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

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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 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:

N/A

VI. SIGNATURES:

COMMITTEE ON CRIME PREVENTION CORRECTIONS & SAFETY:

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