

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 1590

INTRODUCER: Senator Grall

SUBJECT: Prostitution and Related Acts

DATE: January 29, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	Pre-meeting
2.			ACJ	
3.			FP	

I. Summary:

SB 1590 creates s. 796.011, F.S., to provide or redefine the following terms: adult, assignation, commercial sex, female genitals, lewdness, prostitution, and sexual activity.

The bill creates s. 796.031, F.S., to prohibit prostitution, lewdness, and assignation and provide criminal penalties for such offenses.

The bill repeals s. 796.04, F.S., relating to forcing, compelling, or coercing another person to become a prostitute.

The bill amends s. 796.06, F.S., relating to maintaining space to be used for commercial sex. It is unlawful to:

- Own, establish, maintain, operate, or use a building or residence or structure in whole or in part with knowledge or reckless disregard that it will be used for commercial sex.
- Receive, offer to or agree to receive, or allow a person to remain in these structures for the purpose of commercial sexual activity.

The bill reclassifies an offense to the next higher degree if the offense occurs at a place owned, established, maintained, or operating as a massage establishment that is or should be licensed under s. 480.043, F.S.

Additionally the bill authorizes testimony concerning the reputation of any such place, person operating, frequenting, or residing in such place, or the reputation of the defendant to be admissible in evidence in support of the charge.

The bill amends s. 796.07, F.S., to remove definitions for this section. The bill specifies it is unlawful for a person to provide, or offer to provide, something of value in exchange for sexual activity.

The bill reclassifies offenses under this section and requires certain punishments are imposed.

The bill amends ss. 60.05, 322.28, 397.4073, 397.417, 435.07, 456.074, 480.041, 480.043, 480.046, 772.102, 787.01, 787.02, 794.056, 796.08, 796.09, 893.138, 895.02, 938.085, 943.0433 F.S., to provide conforming provisions.

The bill may have an indeterminate fiscal impact on the Department of Corrections (DOC). See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2024.

II. Present Situation:

In Florida, police often run elaborate undercover sting operations to catch those engaged in prostitution. This is usually done through a number of tactics such as: posing as a prostitute to meet up with “johns,” using officers to pose as “bait” to receive offers, and sending undercover officers into massage parlors and adult entertainment.

Chapter 796, F.S., provides for the criminalization of various acts relating to prostitution and establishes penalties for violations. As currently defined, “prostitution” means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses. Current law provides that it is unlawful:

- For anyone to force, compel, or coerce another to become a prostitute and those in violation will be guilty of third degree felony.¹²
- For any person with reasonable belief or knowing another person is engaged in prostitution to live or derive support or maintenance in whole or in part from what is believed to be earnings or proceeds of such person’s prostitution.³ A person who violates such law commits a second degree felony,⁴ a first degree felony⁵ for a second offense, and a first degree felony for a third offense with a mandatory minimum term of imprisonment of 10 years.⁶
- To let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used for the purpose of lewdness, assignation, or prostitution. A person who violates such commits a first degree misdemeanor⁷ or a third degree felony for a second or subsequent violation.⁸

¹ Section 796.04, F.S.

² A third degree felony is generally punishable by no more than 5 years in state prison and a fine not exceeding \$5,000, as provided in s. 775.082 and s. 775.083, F.S.

³ Section 796.05(1), F.S.

⁴ A second degree felony is generally punishable by no more than 15 years in state prison and a fine not exceeding \$10,000, as provided in s. 775.082 and s. 775.083, F.S.

⁵ A first degree felony is generally punishable by no more than 30 years in state prison and a fine not exceeding \$10,000, as provided in s. 775.082 and s. 775.083, F.S.

⁶ Section 796.05(2), F.S.

⁷ A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a \$1,000 fine, as provided in s. 775.082 and s. 775.083, F.S.

⁸ Section 796.06, F.S.

Section 796.07, F.S. defines assignation,⁹ female genitals,¹⁰ lewdness,¹¹ prostitution,¹² and sexual activity.¹³ This section provides it is unlawful:

- To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution.¹⁴
- To offer, or to offer to agree to secure, another for the purpose of prostitution or for any other lewd or indecent act.¹⁵
- To receive, or offer to agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose.¹⁶
- To direct, take, transport, or offer or agree to direct, take, or transport any person to any place, structure, or building, or to any other person with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.¹⁷
- For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation.¹⁸
- To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation.¹⁹
- To aid, abet, or participate in any of the acts or things in this section.²⁰
- To purchase the services of any person engaged in prostitution.²¹

A person who violates any of these offenses commits:

- A second degree misdemeanor for a first violation.²²
- A first degree misdemeanor for a second violation.
- A third degree felony for a third or subsequent violation.²³

A person with a third or subsequent violation must be offered admission to a pretrial intervention program or a substance abuse treatment program.²⁴

⁹ “Assignation” means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement. Section 796.07(1)(a), F.S.

¹⁰ “Female genitals” includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina. Section 796.07(1)(b), F.S.

¹¹ “Lewdness” means any indecent or obscene act. Section 796.07(1)(c), F.S.

¹² “Prostitution” means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses. Section 796.07(1)(d), F.S.

¹³ “Sexual activity” means oral, anal, or female genital penetration by, or union with, the sexual organ of another; anal or female genital penetration of another by any other object; or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, the term does not include acts done for bona fide medical purposes. Section 796.07(1)(e), F.S.

¹⁴ Section 796.07(2)(a), F.S.

¹⁵ Section 796.07(2)(b), F.S.

¹⁶ Section 796.07(2)(c), F.S.

¹⁷ Section 796.07(2)(d), F.S.

¹⁸ Section 796.07(2)(e), F.S.

¹⁹ Section 796.07(2)(g), F.S.

²⁰ Section 796.07(2)(h), F.S.

²¹ Section 796.07(2)(i), F.S.

²² A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and \$500 fine, as provided in s. 775.082 and s. 775.083, F.S.

²³ Section 796.07(4)(a), F.S.

²⁴ Section 796.07(4)(b), F.S.

It is also unlawful to solicit, induce, entice, or procure another to commit prostitution lewdness, or assignation.²⁵ A person who violates such commits:

- A first degree misdemeanor for a first violation.
- A third degree felony for a second violation.
- A second degree felony for a third or subsequent violation.²⁶

Such person must be given a \$5,000 civil penalty if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds, the first \$500 is paid to the circuit court administrator for administrative costs of treatment-based drug court programs. The remainder is deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families for the purpose of funding safe houses and safe foster homes.²⁷ In addition to any penalty imposed, a person convicted of this offense must perform 100 hours of community service, pay for and attend an educational program²⁸ if such program exists in the circuit.²⁹ A person convicted of a second or subsequent violation must also be subject to a minimum mandatory period of incarceration of 10 days.³⁰

If the offender uses a vehicle in the course of committing the offense, the judge may, upon conviction, order for the impoundment or immobilization of the vehicle for up to 60 days.³¹ The owner may request the court to dismiss the order and the court must dismiss the order and costs if:

- The owner's family has no other private or public means of transportation;³²
- The vehicle was stolen at the time of the offense;³³
- The owner purchased the vehicle after the offense was committed, and the sale was not made to circumvent the order and allow the defendant continued access to the vehicle;³⁴ or
- The vehicle is owned by the defendant but is operated solely by employees of the defendant or employees of a business owned by the defendant.³⁵

If the court denies the request to dismiss, the petitioner may request an evidentiary hearing.³⁶

The testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge, any person residing in, operating, or frequenting such place, and

²⁵ Section 796.07(2)(f), F.S.

²⁶ Section 796.07(5)(a), F.S.

²⁷ Section 796.07(6), F.S.

²⁸ A judicial circuit may establish an educational program to include education on: the relationship between demand for commercial sex and human trafficking; the impact of human trafficking on victims; coercion, consent, and sexual violence; the health and legal consequences of commercial sex; the negative impact of commercial sex on prostituted persons and the community; and the reasons and motivations for engaging in prostitution. Section 796.07(8)(a), F.S.

²⁹ Section 796.07(5)(b), F.S.

³⁰ Section 796.07(5)(c), F.S.

³¹ Section 796.07(5)(d)1., F.S.

³² Section 796.07(5)(d)2.a., F.S.

³³ Section 796.07(5)(d)2.b., F.S.

³⁴ Section 796.07(5)(d)2.c., F.S.

³⁵ Section 796.07(5)(d)2.d., F.S.

³⁶ Section 796.07(5)(d)3., F.S.

testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.³⁷ A police officer may testify as an offended party in an action regarding charges.³⁸

As of January 1, 2024, the Soliciting for Prostitution Public Database was repealed. The database was created to include the criminal history record of any person who was found guilty or entered a plea, regardless of adjudication, for soliciting, inducing, enticing, or procuring another to commit prostitution if there is evidence that such person provided a form of payment or arranged for the payment of such services.³⁹

If the place, structure, building, or conveyance is owned, established, maintained, or operated in violation is a massage establishment that is or should be licensed under s. 480.043, F.S., an offense is reclassified to the next higher degree as follows:

- A second degree misdemeanor for a first violation is reclassified as a first degree misdemeanor.⁴⁰
- A first degree misdemeanor for a second violation is reclassified as a third degree felony.⁴¹
- A third degree felony for a third or subsequent violation is reclassified as a second degree felony.⁴²

III. Effect of Proposed Changes:

The bill creates s. 796.011, F.S., to provide definitions relating to prostitution. The bill redefines “prostitution” as voluntarily engaging in, agreeing to engage in, or offering to engage in commercial sex. The bill defines “commercial sex” as engaging in sexual activity in exchange for something of value, including prostitution and human trafficking. The bill also redefines “sexual activity” to include the performance of sexual acts for the purpose of masturbation, regardless of whether contact is made.

The bill creates s. 796.031, F.S., to prohibit prostitution, lewdness, and assignation and provide a person charged with this violation commits a second degree misdemeanor. In addition, the offender must attend an educational program about the negative effects of commercial sex which may be offered by a secular or faith-based provider.

The bill repeals s. 796.04, F.S., relating to forcing, compelling, or coercing another person to become a prostitute. Language pertaining to forcing, compelling, or coercing is embodied under s. 787.06, F.S., as it relates to human trafficking.⁴³

The bill amends s. 796.06, F.S., regarding maintaining space to be used for commercial sex. The bill replaces *lewdness, assignation, or prostitution* with *commercial sex*. The bill includes owning, establishing, maintaining, operating, or using a building or residence or structure in

³⁷ Section 796.07(3)(a), F.S.

³⁸ Section 796.07(3)(b), F.S.

³⁹ Section 796.07(5)(e), F.S.

⁴⁰ Section 796.07(7)(a), F.S.

⁴¹ Section 796.07(7)(b), F.S.

⁴² Section 796.07(7)(c), F.S.

⁴³ The Legislature finds that victims of human trafficking are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor. Section 787.06(1)(a), F.S.

whole or in part with knowledge or reckless disregard that it will be used for commercial sex, as unlawful.

The bill specifies it is unlawful to receive, offer to or agree to receive, or allow a person to remain in these structures for the purpose of commercial sexual activity and provides it is a third degree felony for the first violation and a second degree felony for a second or subsequent violation. If an offense occurs at a place owned, established, maintained, or operating as a massage establishment that is or should be licensed under s. 480.043, F.S., the offense must be reclassified to the next higher degree as follows:

- A third degree felony to a second degree felony.
- A second degree felony to a first degree felony.
- A first degree felony to a first degree felony punishable by life in prison.⁴⁴

The bill authorizes testimony concerning the reputation of any such place, person operating, frequenting, or residing in such place, or the reputation of the defendant to be admissible in evidence in support of the charge.

The bill amends s. 796.07, F.S., to remove definitions for this chapter. The bill specifies it is unlawful for a person to provide, or offer to provide, something of value in exchange for sexual activity. The bill removes language pertaining to owning or maintaining a place for the purpose of prostitution, and removes language relating to prohibited acts of prostitution.

The bill removes a provision that an officer may testify as an offended party in an action regarding charges filed pursuant to this section, and removes language pertaining to a third or subsequent offense requiring pretrial intervention or a substance abuse treatment program.

The bill reclassifies offenses under this section as follows:

- A second degree misdemeanor to a third degree felony for a first violation.
- A first degree misdemeanor to a second degree felony for a second violation.
- A third degree felony to a first degree felony for a third or subsequent violation.

The bill clarifies for any disposition other than acquittal or dismissal for any offense under this section, the offender must perform 100 hours of community service, pay for and attend an educational program, receive sexually transmitted disease testing at a recognized medical facility, and pay a civil penalty of \$5,000. Of the proceeds, the first \$500 must be paid to the court administrator and the remainder be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families.

The bill amends ss. 60.05, 322.28, 397.4073, 397.417, 435.07, 456.074, 480.041, 480.043, 480.046, 772.102, 787.01, 787.02, 794.056, 796.08, 796.09, 893.138, 895.02, 938.085, 943.0433 F.S., to provide conforming provisions.

The bill is effective October 1, 2024

⁴⁴ A first degree felony punishable by a term of imprisonment for life or by a term of imprisonment not exceeding 40 years and a fine not exceeding \$15,000, as punishable by s. 775.082 and s. 775.083, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive indeterminate prison bed impact due to reclassifying misdemeanor offenses as felony offenses.

VI. Technical Deficiencies:

As of January 1, 2024, the Soliciting for Prostitution Public Database was repealed.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 796.06, 796.07, 60.05, 322.28, 397.4073, 397.417, 435.07, 456.074, 480.041, 480.043, 480.046, 772.102, 787.01, 787.02, 794.056, 796.08, 796.09, 893.138, 895.02, 938.085, and 943.0433.

This bill creates the following sections of the Florida Statutes: 796.011 and 796.031.

This bill repeals section 796.04 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
