

Committee Substitute for Senate Bill No. 570

An act relating to prostitution; creating a community-based pilot program entitled Project HOPE in Pinellas County and Hillsborough County; specifying that certain persons convicted of violations of s. 796.07, F.S., are required to participate in the program; providing for program components; providing an appropriation; requiring the Office of Program Policy Analysis and Government Accountability to review Project HOPE and report its findings and recommendations to the Legislature; amending s. 796.07, F.S.; providing that a third or subsequent violation of provisions prohibiting prostitution, certain activities related to prostitution, or the purchase of services from a person engaged in prostitution is a third-degree felony rather than a second-degree misdemeanor; providing that a person charged with such offense may be offered admission to a pretrial intervention program or substance-abuse treatment program; amending s. 322.28, F.S.; requiring that the court revoke a person's driver's license or driving privilege following a second or subsequent conviction of certain offenses of solicitation for prostitution which involve a motor vehicle; amending s. 948.08, F.S., relating to the pretrial intervention program; conforming provisions to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Project HOPE.—

(1) There is created a 2-year community-based program in Pinellas County and Hillsborough County that shall include early intervention for a person convicted of prostitution, as defined in section 796.07(1)(a), Florida Statutes. Any person convicted two or more times under section 796.07, Florida Statutes, shall undergo screening and evaluation for substance abuse prior to sentencing. After screening and evaluation for substance abuse, the person shall enter into a court-authorized substance abuse treatment program, if recommended.

(2) The proposed program shall be called Project HOPE (Healthy Options Promoting Esteem). Project HOPE shall provide services that include intake and screening, initial drug screening and urinalysis tests, psychosocial assessments, case management, short-term supportive counseling, community referrals, and referrals to residential and nonresidential drug treatment.

(3) In order to successfully curb the prostitution cycle, intervention efforts must target the solicitor or buyer of prostitute services as described in section 796.07(2)(f), Florida Statutes. A person convicted for a first or second time under section 796.07, Florida Statutes, shall be given the option to attend a rehabilitative educational program recommended by the court for solicitors or buyers of prostitution services. If the person convicted chooses this option, adjudication shall be withheld pending the completion of the requirements of such program. The person is required to attend six classes

within 6 months and pay \$350 in fees. The program provider shall provide monthly tracking of the person's attendance, progress, and attitude to the court until the classes are completed.

Section 2. There is appropriated from the General Revenue Fund to Pinellas County the sum of \$100,000 and to Hillsborough County the sum of \$100,000 for fiscal year 2002-2003 to fund Project HOPE.

Section 3. The Office of Program Policy Analysis and Government Accountability shall conduct a program review of Project HOPE as created by this act for the 2002-2003 and 2003-2004 fiscal years and shall present a report of its findings and recommendations to the President of the Senate and the Speaker of the House of Representatives by December 1, 2004.

Section 4. Section 796.07, Florida Statutes, is amended to read:

796.07 Prohibiting prostitution, etc.; evidence; penalties; definitions.—

(1) As used in this section:

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

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

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

(d) "Sexual activity" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another; anal or vaginal 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.

(2) It is unlawful:

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

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

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

(d) To direct, take, or transport, or to 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 assignment.

(e) To offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignment.

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

(g) 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.

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

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

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

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

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

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

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

(5) A person who is charged with a third or subsequent violation of this section shall be offered admission to a pretrial intervention program or a substance-abuse treatment program as provided in s. 948.08.

(6) A person who violates paragraph (2)(f) shall be assessed a civil penalty of \$500 if the violation results in any judicial disposition other than acquittal or dismissal. The proceeds from penalties assessed under this subsection shall be paid to the circuit courts administrator for the sole purpose of paying the administrative costs of mandatory treatment-based drug court programs provided under s. 397.334.

Section 5. Subsection (7) is added to section 322.28, Florida Statutes, to read:

322.28 Period of suspension or revocation.—

(7) Following a second or subsequent violation of s. 796.07(2)(f) which involves a motor vehicle and which results in any judicial disposition other than acquittal or dismissal, in addition to any other sentence imposed, the court shall revoke the person's driver's license or driving privilege, effective upon the date of the disposition, for a period of not less than 1 year. A person sentenced under this subsection may request a hearing under s. 322.271.

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

948.08 Pretrial intervention program.—

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

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

2. If the state attorney believes that the facts and circumstances of the case suggest the defendant's involvement in the dealing and selling of controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in the dealing or selling of controlled substances, the court shall deny the defendant's admission into a pretrial intervention program.

Section 7. This act shall take effect July 1, 2002.

Approved by the Governor June 5, 2002.

Filed in Office Secretary of State June 5, 2002.