

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 375 CS Lewdness
SPONSOR(S): Legg; Flores; Lopez-Cantera
TIED BILLS: none **IDEN./SIM. BILLS:** SB 730

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	7 Y, 0 N, w/CS	Bond	Kramer
2) Governmental Operations Committee	6 Y, 0 N, w/CS	Luppert	Everhart
3) Justice Council			
4)			
5)			

SUMMARY ANALYSIS

Some Florida courts have ruled that a police officer may not testify as an offended party in an action that relates to lewdness as defined in s. 796.07(b), F.S. This bill provides that a police officer *may* testify as an offended party in an action regarding lewdness. This bill also permits a police officer to testify as an offended party in an action regarding prostitution, assignation, or sexual activity as defined in s. 796.07, F.S.

This bill does not appear to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility:

The bill authorizes police officer's to testify in an action regarding prostitution, lewdness, assignation, or sexual activity.

B. EFFECT OF PROPOSED CHANGES:

Background

It is a misdemeanor to commit a lewd act. The courts have found the definition of a lewd act includes a requirement that some other person be offended by the lewd act. Some Florida courts have ruled that a police officer may not testify as an offended party in an action that relates to a lewd act as defined in s. 796.07(b), F.S.

Section 796.07(2), F.S., provides that it is unlawful:

- To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution.
- To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act.
- 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 assignation, or to permit any person to remain there for such purpose.
- 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 assignation.
- To offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation.
- To solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation.
- 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.
- To aid, abet, or participate in any of the acts or things enumerated in this subsection.
- To purchase the services of any person engaged in prostitution.

Effect of Bill

This bill provides that a police officer *may* testify in an action regarding prostitution, lewdness, assignation, or sexual activity.

C. SECTION DIRECTORY:

Section 1 amends s. 796.07, F.S., to allow a police officer to testify.

Section 2 provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 9, 2005, the Criminal Justice Committee adopted an amendment specifying the requirement that the act be offensive to a person witnessing the act, providing that a law enforcement officer may be a person offended by a lewd act, and adding that lewdness is determined based on what a reasonable member of the public might find offensive. The bill was then temporarily postponed.

On March 16, 2005, the Criminal Justice Committee adopted a substitute amendment that adds a requirement that a lewd act must be “substantially” offensive. The bill was then reported favorably with a committee substitute.

On April 6, 2005, the Governmental Operations Committee adopted a strike-all amendment that allows a police officer to testify as an offended party in an action regarding prostitution, lewdness, assignation, or sexual activity. The bill was then reported favorably with a committee substitute.