1989

Session Law 89-044

Florida Senate & House of Representatives

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H 106 GENERAL BILL by Smith and others (Identical S 1170)
Circuit Court Clerk/Obscene Material; eliminates requirement that clerks of cir­cuit courts retain evidence re violations in connection with obscene materials.
Amends 847.011. Effective Date: 07/01/89.
01/13/89 HOUSE Prefiled
01/19/89 HOUSE Referred to Criminal Justice
01/20/89 HOUSE Subreferred to Subcommittee on Prosecution and Punish­ment; On Committee agenda—Criminal Justice, 02/08/89, 8:00 am. 16–HOB—For ratification of subre­ferral
02/20/89 HOUSE On subcommittee agenda—Criminal Justice, 03/08/89, 8:00 am. 21–HOB
03/09/89 HOUSE Subcommittee Recommendation: Favorable; On Commit­tee agenda, pending subcommittee action—Criminal Justice, 03/21/89, 3:00 pm, 217–HOB
03/23/89 HOUSE Preliminary Committee Action by Criminal Justice: Favor­able
03/24/89 HOUSE Comm. Report: Favorable by Criminal Justice, placed on Calendar
04/04/89 HOUSE Introduced, referred to Criminal Justice –HJ 22; Subre­ferred to Subcommittee on Prosecution and Punishment; Comm. Report: Favorable by Criminal Justice, placed on Calendar –HJ 156
04/11/89 HOUSE Placed on Special Order Calendar
04/12/89 HOUSE Read second time –HJ 209
04/13/89 HOUSE Read third time; Passed; YEAS 114 NAYS 0 –HJ 217
04/19/89 SENATE In Messages
04/27/89 SENATE Received, referred to Judiciary–Civil –SJ 229
04/28/89 SENATE Extension of time granted Committee Judiciary–Civil
05/05/89 SENATE On Committee agenda—Judiciary–Civil, 05/09/89, 3:15 pm. Room–1C–(308)
05/09/89 SENATE Comm. Report: Favorable by Judiciary–Civil, placed on Calendar –SJ 311
05/29/89 SENATE Substituted for SB 1170; Passed; YEAS 37 NAYS 0 –SJ 530
05/29/89 Ordered enrolled
06/13/89 Signed by Officers and presented to Governor
06/15/89 Approved by Governor; Chapter No. 89-44

NOTES: Above bill history from Division of Legislative Information's FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.
I. SUMMARY:

A. PRESENT SITUATION:

Section 847.011, F. S., provides that obscene literature seized pursuant to an arrest in violation of the obscenity statutes by a law enforcement officer shall be delivered to the clerk of the court having jurisdiction until the literature is no longer needed as evidence.

B. EFFECT OF PROPOSED CHANGES:

This bill would require the arresting agency to hold the items seized, rather than the clerk of the court.

C. SECTION-BY-SECTION ANALYSIS:

Section 1 requires the arresting agency, rather than the clerk of the court to hold items seized as a result of violations of the obscene literature statutes.

Section 2 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None
2. Recurring or Annualized Continuation Effects:
   None

3. Long Run Effects Other Than Normal Growth:
   None

4. Appropriations Consequences:
   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:
1. Non-recurring or First Year Start-Up Effects:
   None

2. Recurring or Annualized Continuation Effects:
   None

3. Long Run Effects Other Than Normal Growth:
   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:
1. Direct Private Sector Costs:
   None

2. Direct Private Sector Benefits:
   None

3. Effects on Competition, Private Enterprise, and Employment Markets:
   None

D. FISCAL COMMENTS:
   None

III. LONG RANGE CONSEQUENCES:
   None

IV. COMMENTS:
   None
V. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: Susan G. Bisbee

Staff Director: Robin S. Hassler

SECOND COMMITTEE OF REFERENCE:
Prepared by:

APPROPRIATIONS:
Prepared by:

Staff Director:
I. SUMMARY:

A. Present Situation:

Section 847.011, F.S., prohibits the sale and possession of obscene literature. Subsection (7) of this section provides that, "There shall be no right of property in any of the materials, matters, articles or things otherwise possessed or otherwise dealt with in violation of this section ... " Id. The subsection goes on to provide that after the law enforcement officer seizes the offending materials, they are to be delivered to the clerk of the court having jurisdiction to try the offense. If, after trial, the court finds that the materials are in violation of s. 847.011, F.S., the court must order them destroyed. The sheriff is then required to destroy the materials in the presence of the clerk. The clerk and the sheriff are then required to file a certificate of compliance with the order.

B. Effect of Proposed Changes:

The bill would amend s. 847.11(7), F.S., to provide that the arresting agency would hold the materials and therefore not deliver them to the clerk of the court having jurisdiction to try the offense. The disposal provisions would remain unaffected.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.
I. SUMMARY:

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A. Public:

None.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.