

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 620

SPONSOR: Committee on Judiciary and Senator Meek

SUBJECT: Discrimination in the Treatment of Persons

DATE: April 11, 2001

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Forgas</u>	<u>Johnson</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 620 amends several provisions in Chapter 760, F.S., which generally pertains to civil rights. The bill:

- allows the Attorney General to intervene in, or commence, certain civil actions involving violations of the Florida Civil Rights Act of 1992, found in ss. 760.01-760.11, F.S.; and
- allows the Attorney General to intervene in, or commence, certain civil actions involving violations of the Fair Housing Act, found in ss. 760.20-760.37, F.S.

The committee substitute also expands the authority of the Office of Civil Rights in the Department of Legal Affairs, as set forth in s. 16.57, F.S., to investigate not only violations of constitutional rights, but rights secured by the laws of the state under s. 760.51, F.S.

The bill takes effect on July 1, 2001.

The committee substitute substantially amends the following sections of the Florida Statutes: 16.57, 760.11, 760.34.

II. Present Situation:

Chapter 760 of the Florida Statutes, entitled "Civil Rights", is composed of five separate parts which collectively prohibit discriminatory conduct against certain individuals in various settings. More specifically, Part I of chapter 760 (ss. 760.01-760.11, F.S.), known as the Florida Civil Rights Act of 1992, prohibits employment discrimination. Part II of chapter 760 (ss. 760.20-760.37, F.S.), known as the Fair Housing Act, prohibits discriminatory housing practices. The remaining parts of chapter 760: contain miscellaneous provisions in Part III (ss. 760.40-760.60);

provide for minority representation in certain bodies in Part IV (ss. 760.80, F.S.); and provide for environmental equity and justice in Part V. (s. 760.854, F.S.)

Florida Civil Rights Act of 1992

Sections 760.01-760.11, F.S., and s. 509.092, F.S., comprise the Florida Civil Rights Act of 1992. The general purposes of the act are to secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status. Thus, the act is intended to: protect each individual's interests in personal dignity; make available to the state each individual's full productive capacities; secure the state against domestic strife and unrest; preserve the public safety, health, and general welfare; and promote the interests, rights, and privileges of individuals within the state. *See*, s. 760.01(2), F.S.

Any violation of any Florida statute making unlawful discrimination because of race, color, religion, gender, national origin, age, handicap, or marital status in the areas of education, employment, housing, or public accommodations gives rise to a cause of action for all relief and damages set forth in s. 760.11(5), F.S., unless greater damages are expressly provided for. *See*, s. 760.07, F.S. The term "public accommodation" does not include lodge halls or other similar facilities of private organizations which are only made available for occasional or periodical public use. Section 509.092, F.S., provides that public lodging establishments and public food service establishments are private enterprises, and the operator has the right to refuse accommodations or service to any person who is objectionable or undesirable to the operator, but such refusal may not be based upon race, creed, color, sex, physical disability, or national origin.

If the statute prohibiting unlawful discrimination provides an administrative remedy, the action for equitable relief and damages provided for in s. 760.07, F.S., may be initiated only after the plaintiff's administrative remedy has been exhausted. In addition to an action by an individual plaintiff, s. 760.51(1), F.S., allows the Attorney General to bring a civil or administrative action for damages, injunctive relief, or any other appropriate relief "whenever any person, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any other person of rights secured by the State Constitution or laws of this state..." The Attorney General must bring the action in the name of the state and may bring the action on behalf of the aggrieved individual. Section 760.51(2), F.S., allows the aggrieved individual or the Attorney General to collect a civil penalty of not more than \$10,000 for each violation. Section 16.57, F.S., provides the Attorney General with the authority to investigate "violations of constitutional rights under s. 760.51," by authorizing the Attorney General to administer oaths and affirmations, subpoena witnesses or matter, and collect evidence.

Chapter 760 also provides causes of action pertaining to discrimination that specifically occurs in employment, housing, or clubs that have more than 400 members, or is based upon having AIDS. *See*, ss. 760.10-.11; 760.23-.29; 760.34-.37; 760.50; 760.60, F.S. Individuals who have been discriminated against in employment, housing, or by a club that has more than 400 members, must first file a complaint with the Florida Commission on Human Relations prior to instituting an action in court. The commission has a wide array of administrative, regulatory, and investigative powers designed to further its function of promoting and encouraging fair treatment and equal opportunity for all persons. *See*, ss. 760.05-.06, F.S.

III. Effect of Proposed Changes:

- **Section 1** amends s. 16.57, F.S., to provide that the Attorney General may investigate violations of rights secured by the laws of this state under s. 760.51, F.S. Current law only allows the Attorney General to investigate violations of constitutional rights under s. 760.51, F.S.
- **Section 2** amends s. 760.11, F.S., which provides administrative and civil remedies for violations of the Florida Civil Rights Act of 1992. New subsections (16) and (17) are added to permit the Attorney General to intervene in a civil action if the Attorney General certifies the case to be of great public importance. The Attorney General may, based upon reasonable cause, institute a civil action in state or federal court when any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by the state constitution or laws of this state. The Attorney General may also bring such actions when any person or group of persons has been denied any such rights, or when any person or group of persons has otherwise attempted to interfere with such rights. Damages, injunctive relief, attorney's fees and costs, and civil penalties of not more than \$10,000 for each violation may be recovered.
- **Section 3** amends s. 760.34, F.S., which permits individuals who have been injured by a discriminatory housing practice to file a complaint with the Florida Human Relations Commission. New subsections (9) and (10) are added to permit the Attorney General to intervene in a civil action if the Attorney General certifies the case to be of great public importance. The Attorney General is also given the authority to institute a civil action in state or federal court when, based upon reasonable cause, any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by the state constitution or laws of this state. The Attorney General may also bring such actions when any person or group of persons has been denied any such rights, or when any person or group of persons has otherwise attempted to interfere with such rights. Damages, injunctive relief, attorney's fees and costs, and civil penalties of not more than \$10,000 for each violation may be recovered.
- **Section 4** provides that this act shall take effect July 1, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
