

By the Committee on Appropriations; and Senators Villalobos, Miller, Campbell, Argenziano, Fasano, Bullard, Margolis, Aronberg, Atwater, Peaden, Lawson, Siplin, Smith, Diaz de la Portilla, Constantine and Hill

309-2443-03

1 A bill to be entitled
 2 An act relating to the Florida Civil Rights Act
 3 of 1992; creating s. 760.021, F.S.; authorizing
 4 the Attorney General to commence a civil action
 5 against a person or group perpetuating
 6 discriminatory practices; providing for
 7 damages, injunctive relief, and civil
 8 penalties; providing for attorney's fees and
 9 costs; providing for a deposit of civil
 10 penalties into General Revenue Fund; amending
 11 s. 16.57, F.S.; authorizing the Attorney
 12 General to investigate violations under the
 13 Florida Civil Rights Act of 1992; conforming
 14 statutory cross-references to the Attorney
 15 General's authority to investigate and initiate
 16 actions for discriminatory practices in
 17 violation of civil rights; amending ss.
 18 110.105, 110.233, 112.042, and 760.10, F.S.;
 19 revising provisions relating to state
 20 employment policy, career service appointments,
 21 and county and municipal employment practices,
 22 to provide that discrimination on the basis of
 23 sex includes discrimination on the basis of
 24 pregnancy, childbirth, or related medical
 25 conditions; reenacting ss. 104.31(3) and
 26 760.11(15), F.S., to incorporate amendments to
 27 ss. 110.233 and 760.10, F.S., in references
 28 thereto; providing effective dates.

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

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1 Section 1. Section 760.021, Florida Statutes, is
2 created to read:

3 760.021 Enforcement.--If the Attorney General has
4 reasonable cause to believe that any person or group:

5 (1) Has engaged in a pattern or practice of
6 discrimination as defined by state law; or

7 (2) Has been discriminated against as defined by state
8 law and such discrimination raises an issue of general public
9 importance,

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11 the Attorney General may commence a civil action for damages,
12 injunctive relief, civil penalties not to exceed \$10,000 per
13 violation, or any other relief that may be appropriate under
14 law. Any damages recovered under this section shall accrue to
15 the injured party. The Attorney General is entitled to an
16 award of reasonable attorney's fees and costs if the
17 Department of Legal Affairs prevails in an action brought
18 under this section. Civil penalties collected under this
19 section accrue to the state and are to be deposited as
20 received into the General Revenue Fund unallocated.

21 Section 2. Section 16.57, Florida Statutes, is amended
22 to read:

23 16.57 Office of Civil Rights.--There is created in the
24 Department of Legal Affairs an Office of Civil Rights. The
25 office may investigate and initiate actions authorized by ss.
26 760.021, ~~s.~~760.51, and 760.60. In investigating violations
27 of constitutional and statutory rights under these sections ~~s.~~
28 ~~760.51~~, the Attorney General may administer oaths and
29 affirmations, subpoena witnesses or matter, and collect
30 evidence.

1 Section 3. Effective July 1, 2003, subsection (2) of
2 section 110.105, Florida Statutes, is amended to read:

3 110.105 Employment policy of the state.--

4 (2)(a) All appointments, terminations, assignments and
5 maintenance of status, compensation, privileges, and other
6 terms and conditions of employment in state government shall
7 be made without regard to age, sex, race, religion, national
8 origin, political affiliation, marital status, or handicap,
9 except when a specific sex, age, or physical requirement
10 constitutes a bona fide occupational qualification necessary
11 to proper and efficient administration.

12 (b) For purposes of this subsection, the phrase
13 "without regard to sex" includes, but is not limited to,
14 without regard to pregnancy, childbirth, or related medical
15 conditions. Women affected by pregnancy, childbirth, or
16 related medical conditions shall be treated the same for all
17 employment-related purposes, including receipt of benefits
18 under fringe benefits programs, as other persons not so
19 affected but similar in their ability or inability to work,
20 and the employment policy of the state may not be interpreted
21 to permit otherwise.

22 Section 4. Effective July 1, 2003, subsection (1) of
23 section 110.233, Florida Statutes, is amended to read:

24 110.233 Political activities and unlawful acts
25 prohibited.--

26 (1)(a) No person shall be appointed to, demoted, or
27 dismissed from any position in the career service, or in any
28 way favored or discriminated against with respect to
29 employment in the career service, because of race, color,
30 national origin, sex, handicap, religious creed, or political
31 opinion or affiliation.

1 (b) As used in this subsection, the phrase "because of
2 sex" includes, but is not limited to, because of pregnancy,
3 childbirth, or related medical conditions. Women affected by
4 pregnancy, childbirth, or related medical conditions shall be
5 treated the same with respect to employment in the career
6 service, including receipt of benefits under fringe benefits
7 programs, as other persons not so affected but similar in
8 their ability or inability to work, and rules or practices of
9 the career service system of the state may not be interpreted
10 to permit otherwise.

11 Section 5. Effective July 1, 2003, subsection (1) of
12 section 112.042, Florida Statutes, is amended to read:

13 112.042 Discrimination in county and municipal
14 employment; relief.--

15 (1)(a) It is against the public policy of this state
16 for the governing body of any county or municipal agency,
17 board, commission, department, or office, solely because of
18 the race, color, national origin, sex, handicap, or religious
19 creed of any individual, to refuse to hire or employ, to bar,
20 or to discharge from employment such individuals or to
21 otherwise discriminate against such individuals with respect
22 to compensation, hire, tenure, terms, conditions, or
23 privileges of employment, if the individual is the most
24 competent and able to perform the services required.

25 (b) As used in this subsection, the phrase "because of
26 sex" includes, but it not limited to, because of pregnancy,
27 childbirth, or related medical conditions. Women affected by
28 pregnancy, childbirth, or related medical conditions shall be
29 treated the same for all employment-related purposes,
30 including receipt of benefits under fringe benefits programs,
31 as other persons not so affected but similar in their ability

1 or inability to work, and this paragraph may not be
2 interpreted to permit otherwise.

3 Section 6. Effective July 1, 2003, present subsection
4 (10) of section 760.10, Florida Statutes is redesignated as
5 subsection (11), and a new subsection (10) is added to that
6 section, to read:

7 760.10 Unlawful employment practices.--

8 (10) As used in this section, the terms "because of
9 sex" and "on the basis of sex" include, but are not limited
10 to, because or on the basis of pregnancy, childbirth, or
11 related medical conditions. Women affected by pregnancy,
12 childbirth, or related medical conditions shall be treated the
13 same for all employment-related purposes, including receipt of
14 benefits under fringe benefits programs, as other persons not
15 so affected but similar in their ability or inability to work,
16 and this section may not be interpreted to permit otherwise.

17 Section 7. Effective July 1, 2003, for purposes of
18 incorporating the amendments made by this act to section
19 110.233, Florida Statutes, in a reference thereto, subsection
20 (3) of section 104.31, Florida Statutes, is reenacted to read:

21 104.31 Political activities of state, county, and
22 municipal officers and employees.--

23 (3) Nothing contained in this section or in any county
24 or municipal charter shall be deemed to prohibit any public
25 employee from expressing his or her opinions on any candidate
26 or issue or from participating in any political campaign
27 during the employee's off-duty hours, so long as such
28 activities are not in conflict with the provisions of
29 subsection (1) or s. 110.233.

30 Section 8. Effective July 1, 2003, for purposes of
31 incorporating the amendments made by this act to section

1 760.10, Florida Statutes, in a reference thereto, subsection
2 (15) of section 760.11, Florida Statutes, is reenacted to
3 read:

4 760.11 Administrative and civil remedies;
5 construction.--

6 (15) In any civil action or administrative proceeding
7 brought pursuant to this section, a finding that a person
8 employed by the state or any governmental entity or agency has
9 violated s. 760.10 shall as a matter of law constitute just or
10 substantial cause for such person's discharge.

11 Section 9. Except as otherwise expressly provided in
12 this act, this act shall take effect upon becoming a law.

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14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 Senate Bill 1214

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18 The Committee Substitute adds provisions related to
19 discrimination on the basis of sex to include pregnancy and
20 childbirth.

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