

By the Committee on Judiciary; and Senators Villalobos, Smith, Miller and Diaz de la Portilla

308-2631-03

1 A bill to be entitled

2 An act relating to the Florida Civil Rights Act

3 of 1992; providing a short title; creating s.

4 760.021, F.S.; authorizing the Attorney General

5 to commence a civil action against a person or

6 group perpetuating discriminatory practices;

7 providing for damages, injunctive relief, and

8 civil penalties; providing for venue; providing

9 for a hearing to determine a prima facie case;

10 providing for attorney's fees and costs;

11 amending s. 16.57, F.S.; authorizing the

12 Attorney General to investigate violations

13 under the Florida Civil Rights Act of 1992;

14 amending s. 760.02, F.S.; defining the term

15 "public accommodations"; creating 760.08, F.S.;

16 making unlawful discrimination or segregation

17 in places of public accommodation; providing

18 for construction of the act in pari materia

19 with laws enacted during the 2003 Regular

20 Session of the Legislature; providing an

21 effective date.

22

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

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25 Section 1. This act may be cited as the "Dr. Marvin

26 Davies Florida Civil Rights Act."

27 Section 2. Section 760.021, Florida Statutes, is

28 created to read:

29 760.021 Enforcement.--

30 (1) The Attorney General may commence a civil action

31 for damages, injunctive relief, civil penalties not to exceed

1 \$10,000 per violation, and such other relief as may be
2 appropriate under the laws of this state if the Attorney
3 General has reasonable cause to believe that any person or
4 group:

5 (a) Has engaged in a pattern or practice of
6 discrimination as defined by the laws of this state; or

7 (b) Has been discriminated against as defined by the
8 laws of this state and such discrimination raises an issue of
9 great public interest.

10 (2) The Attorney General may file an action under this
11 section in the circuit court of the county where the cause of
12 action arises or in the circuit court for the Second Judicial
13 Circuit in and for Leon County.

14 (3) In any proceeding under this section, the
15 respondent may request, before any responsive pleading is due,
16 that a hearing be held no earlier than 5 days but no more than
17 30 days after the filing of the complaint, at which the court
18 shall determine whether the complaint on its face, makes a
19 prima facie showing that a pattern or practice of
20 discrimination exists or that, as a result of discrimination,
21 an issue of great public interest exists.

22 (4) The prevailing party in an action brought under
23 this section is entitled to an award of reasonable attorney's
24 fees and costs.

25 (5) Any damages recovered under this section shall
26 accrue to the injured party.

27 Section 3. Section 16.57, Florida Statutes, is amended
28 to read:

29 16.57 Office of Civil Rights.--There is created in the
30 Department of Legal Affairs an Office of Civil Rights. The
31 office may investigate and initiate actions authorized by

1 chapter 760 ~~s. 760.51~~. In investigating violations of
2 constitutional and statutory rights under chapter 760 ~~s.~~
3 ~~760.51~~, the Attorney General may administer oaths and
4 affirmations, subpoena witnesses or matter, and collect
5 evidence.

6 Section 4. Subsection (11) is added to section 760.02,
7 Florida Statutes, to read:

8 760.02 Definitions.--For the purposes of ss.
9 760.01-760.11 and 509.092, the term:

10 (11) "Public accommodations" means places of public
11 accommodation, lodgings, facilities principally engaged in
12 selling food for consumption on the premises, gasoline
13 stations, places of exhibition or entertainment, and other
14 covered establishments. Each of the following establishments
15 which serves the public is a place of public accommodation
16 within the meaning of this section:

17 (a) Any inn, hotel, motel, or other establishment
18 which provides lodging to transient guests, other than an
19 establishment located within a building which contains not
20 more than four rooms for rent or hire and which is actually
21 occupied by the proprietor of such establishment as his or her
22 residence.

23 (b) Any restaurant, cafeteria, lunchroom, lunch
24 counter, soda fountain, or other facility principally engaged
25 in selling food for consumption on the premises, including,
26 but not limited to, any such facility located on the premises
27 of any retail establishment, or any gasoline station.

28 (c) Any motion picture house, theater, concert hall,
29 sports arena, stadium, or other place of exhibition or
30 entertainment.

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1 (d) Any establishment which is physically located
2 within the premises of any establishment otherwise covered by
3 this subsection, or within the premises of which is physically
4 located any such covered establishment, and which holds itself
5 out as serving patrons of such covered establishment.

6 Section 5. Section 760.08, Florida Statutes, is
7 created to read:

8 760.08 Discrimination in places of public
9 accommodation.--All persons shall be entitled to the full and
10 equal enjoyment of the goods, services, facilities,
11 privileges, advantages, and accommodations of any place of
12 public accommodation, as defined in this chapter, without
13 discrimination or segregation on the ground of race, color,
14 national origin, sex, handicap, familial status, or religion.

15 Section 6. If any law amended by this act was also
16 amended by a law enacted at the 2003 Regular Session of the
17 Legislature, such laws shall be construed as if they had been
18 enacted during the same session of the Legislature, and full
19 effect shall be given to each if possible.

20 Section 7. This act shall take effect upon becoming a
21 law.

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23 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
24 COMMITTEE SUBSTITUTE FOR
25 SB 0046-A

26 The committee substitute for SB 46-A makes certain technical
27 changes reflecting stylistic bill drafting differences between
28 the House and the Senate such as, replacing the word "that"
29 with "which", and the phrase "by state law" and "under law"
30 with the phrase "the laws of this state." The committee
31 substitute also corrects a drafting error replacing "issue of
general public importance" with "issue of great public
interest" to maintain consistency throughout the bill.
Finally, in the section relating to discrimination in places
of public accommodation, the term "gender" is replaced with
the term "sex."