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1 A bill to be entitled
 2 An act relating to the Florida Civil Rights Act of
 3 1992; providing a short title; amending s. 760.02,
 4 F.S.; expanding the meaning of "sex" as the term
 5 relates to the Florida Civil Rights Act of 1992;
 6 specifying that a woman who is pregnant or who is
 7 affected by a medical condition related to pregnancy
 8 or childbirth must be treated the same for all
 9 employment-related purposes, including receipt of
 10 benefits, as an individual who has a medical condition
 11 unrelated to pregnancy or childbirth; amending s.
 12 760.11, F.S.; extending the time for the Florida
 13 Commission on Human Relations to investigate
 14 complaints and determine reasonable cause; specifying
 15 powers of the commission and administrative law judges
 16 to enter proposed orders to prohibit practices that
 17 violate the Florida Civil Rights Act of 1992;
 18 authorizing the commission and administrative law
 19 judges to award compensatory and punitive damages;
 20 providing a monetary limit on the award of punitive
 21 damages; providing that attorney fees be calculated
 22 consistent with federal case law; extending the time
 23 before a complainant may proceed with civil or
 24 administrative action when the commission fails to
 25 conciliate or determine whether there is reasonable
 26 cause; providing an effective date.

27
 28 Be It Enacted by the Legislature of the State of Florida:

29
 30 Section 1. This act may be cited as the "Protect Our Women
 31 Act."

32 Section 2. Present subsections (1), (5), (6), (7), (8),
 33 (9), and (10) of section 760.02, Florida Statutes, are reordered
 34 and redesignated as subsections (7), (9), (10), (5), (6), (8),
 35 and (1), respectively, and a new subsection (12) is added to
 36 that section, to read:

37 760.02 Definitions.—For the purposes of ss. 760.01–760.11
 38 and 509.092, the term:

39 (12) "Sex" means the biological state of being a male, a
 40 female, or a female who is pregnant or affected by any medical
 41 condition related to pregnancy or childbirth. A female who is
 42 pregnant or who is affected by a medical condition related to
 43 pregnancy or childbirth shall be treated the same for all
 44 employment-related purposes as an individual not so affected who
 45 has a similar ability or inability to work.

46 Section 3. Subsections (3), (6), (7), and (8) of section
 47 760.11, Florida Statutes, are amended to read:

48 760.11 Administrative and civil remedies; construction.—

49 (3) Except as provided in subsection (2), the commission
 50 shall investigate the allegations in the complaint. Within 240
 51 ~~180~~ days after ~~of~~ the filing of the complaint, the commission
 52 shall determine if there is reasonable cause to believe that
 53 discriminatory practice has occurred in violation of the Florida
 54 Civil Rights Act of 1992. When the commission determines whether
 55 ~~or not~~ there is reasonable cause, the commission shall promptly
 56 notify by registered mail ~~shall promptly notify~~ the aggrieved

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57 | person and the respondent of the reasonable cause determination,
58 | the date of such determination, and the options available under
59 | this section.

60 | (6) Any administrative hearing brought pursuant to
61 | paragraph (4) (b) shall be conducted under ss. 120.569 and
62 | 120.57. The commission may hear the case provided that the final
63 | order is issued by members of the commission who did not conduct
64 | the hearing or the commission may request that it be heard by an
65 | administrative law judge pursuant to s. 120.569(2) (a). If the
66 | commission elects to hear the case, it may be heard by a
67 | commissioner. If the commissioner, after the hearing, finds that
68 | a violation of the Florida Civil Rights Act of 1992 has
69 | occurred, the commissioner shall issue an appropriate proposed
70 | order in accordance with chapter 120 prohibiting the
71 | discriminatory practice and providing affirmative relief from
72 | the effects of the practice, including back pay. The
73 | commissioner may also award punitive and compensatory damages,
74 | including, but not limited to, damages for mental anguish, loss
75 | of dignity, and any other intangible injuries. Punitive damages
76 | awarded under this section may not exceed \$100,000. If the
77 | administrative law judge, after the hearing, finds that a
78 | violation of the Florida Civil Rights Act of 1992 has occurred,
79 | the administrative law judge shall issue an appropriate
80 | recommended order in accordance with chapter 120 prohibiting the
81 | discriminatory practice and providing affirmative relief from
82 | the effects of the practice, including back pay. The
83 | administrative law judge may also award punitive and
84 | compensatory damages, including, but not limited to, damages for

85 | mental anguish, loss of dignity, and any other intangible
 86 | injuries. Punitive damages awarded under this section may not
 87 | exceed \$100,000. Within 90 days after ~~of~~ the date the
 88 | recommended or proposed order is rendered, the commission shall
 89 | issue a final order by adopting, rejecting, or modifying the
 90 | recommended order as provided under ss. 120.569 and 120.57. The
 91 | 90-day period may be extended with the consent of all the
 92 | parties. An administrative hearing pursuant to paragraph (4) (b)
 93 | may ~~must~~ be requested no later than 35 days after the date of
 94 | determination of reasonable cause by the commission. In any
 95 | action or proceeding under this subsection, the commission, in
 96 | its discretion, may allow the prevailing party a reasonable
 97 | attorney ~~attorney's~~ fee as part of the costs. Attorney ~~It is the~~
 98 | ~~intent of the Legislature that this provision for attorney's~~
 99 | ~~fees~~ must be calculated ~~interpreted~~ in a manner consistent with
 100 | federal case law involving a Title VII action.

101 | (7) If the commission determines that there is not
 102 | reasonable cause to believe that a violation of the Florida
 103 | Civil Rights Act of 1992 has occurred, the commission shall
 104 | dismiss the complaint. The aggrieved person may request an
 105 | administrative hearing under ss. 120.569 and 120.57, but any
 106 | such request must be made within 35 days after ~~of~~ the date of
 107 | determination of reasonable cause and any such hearing shall be
 108 | heard by an administrative law judge and not by the commission
 109 | or a commissioner. If the aggrieved person does not request an
 110 | administrative hearing within the 35 days, the claim will be
 111 | barred. If the administrative law judge finds that a violation
 112 | of the Florida Civil Rights Act of 1992 has occurred, he or she

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113 shall issue an appropriate recommended order to the commission
114 prohibiting the discriminatory practice and recommending
115 affirmative relief from the effects of the practice, including
116 back pay. The administrative law judge may also award punitive
117 and compensatory damages, including, but not limited to, damages
118 for mental anguish, loss of dignity, and any other intangible
119 injuries. Punitive damages awarded under this section may not
120 exceed \$100,000. Within 90 days after ~~of~~ the date the
121 recommended order is rendered, the commission shall issue a
122 final order by adopting, rejecting, or modifying the recommended
123 order as provided under ss. 120.569 and 120.57. The 90-day
124 period may be extended with the consent of all the parties. In
125 any action or proceeding under this subsection, the commission,
126 in its discretion, may allow the prevailing party a reasonable
127 attorney ~~attorney's~~ fee as part of the costs. Attorney ~~It is the~~
128 ~~intent of the Legislature that this provision for attorney's~~
129 fees must be calculated ~~interpreted~~ in a manner consistent with
130 federal case law involving a Title VII action. In the event the
131 final order issued by the commission determines that a violation
132 of the Florida Civil Rights Act of 1992 has occurred, the
133 aggrieved person may bring, within 1 year after ~~of~~ the date of
134 the final order, a civil action under subsection (5) as if there
135 has been a reasonable cause determination or accept the
136 affirmative relief offered by the commission, but not both.

137 (8) If ~~In the event that~~ the commission fails to
138 conciliate or determine whether there is reasonable cause on any
139 complaint under this section within 240 ~~180~~ days after ~~of~~ the
140 filing of the complaint, an aggrieved person may proceed under

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141 subsection (4), as if the commission determined that there was
142 reasonable cause.

143 Section 4. This act shall take effect July 1, 2013.