

By Senator Thompson

12-00648A-13

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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:
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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
57 person and the respondent of the reasonable cause determination,
58 the date of such determination, and the options available under

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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

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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
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

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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 conciliate
138 or determine whether there is reasonable cause on any complaint
139 under this section within 240 ~~180~~ days after ~~of~~ the filing of
140 the complaint, an aggrieved person may proceed under subsection
141 (4), as if the commission determined that there was reasonable
142 cause.

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