

By the Committee on Commerce and Tourism; and Senators Thompson, Clemens, Soto, Sobel, Joyner, Abruzzo, Margolis, Ring, Gibson, and Braynon

577-02583-13

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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 providing that attorney fees be calculated consistent
19 with federal case law; extending the time before a
20 complainant may proceed with civil or administrative
21 action when the commission fails to conciliate or
22 determine whether there is reasonable cause; providing
23 an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. This act may be cited as the "Protect Our Women
28 Act."

29 Section 2. Present subsections (1), (5), (6), (7), (8),

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30 (9), and (10) of section 760.02, Florida Statutes, are reordered
31 and redesignated as subsections (7), (9), (10), (5), (6), (8),
32 and (1), respectively, and a new subsection (12) is added to
33 that section, to read:

34 760.02 Definitions.—For the purposes of ss. 760.01-760.11
35 and 509.092, the term:

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

43 Section 3. Subsections (3), (6), (7), and (8) of section
44 760.11, Florida Statutes, are amended to read:

45 760.11 Administrative and civil remedies; construction.—

46 (3) Except as provided in subsection (2), the commission
47 shall investigate the allegations in the complaint. Within 240
48 ~~180~~ days after ~~of~~ the filing of the complaint, the commission
49 shall determine if there is reasonable cause to believe that
50 discriminatory practice has occurred in violation of the Florida
51 Civil Rights Act of 1992. When the commission determines whether
52 ~~or not~~ there is reasonable cause, the commission shall promptly
53 notify by registered mail ~~shall promptly notify~~ the aggrieved
54 person and the respondent of the reasonable cause determination,
55 the date of such determination, and the options available under
56 this section.

57 (6) Any administrative hearing brought pursuant to
58 paragraph (4) (b) shall be conducted under ss. 120.569 and

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59 120.57. The commission may hear the case provided that the final
60 order is issued by members of the commission who did not conduct
61 the hearing or the commission may request that it be heard by an
62 administrative law judge pursuant to s. 120.569(2)(a). If the
63 commission elects to hear the case, it may be heard by a
64 commissioner. If the commissioner, after the hearing, finds that
65 a violation of the Florida Civil Rights Act of 1992 has
66 occurred, the commissioner shall issue an appropriate proposed
67 order in accordance with chapter 120 prohibiting the
68 discriminatory practice and providing affirmative relief from
69 the effects of the practice, including back pay. If the
70 administrative law judge, after the hearing, finds that a
71 violation of the Florida Civil Rights Act of 1992 has occurred,
72 the administrative law judge shall issue an appropriate
73 recommended order in accordance with chapter 120 prohibiting the
74 discriminatory practice and providing affirmative relief from
75 the effects of the practice, including back pay. Within 90 days
76 after ~~of~~ the date the recommended or proposed order is rendered,
77 the commission shall issue a final order by adopting, rejecting,
78 or modifying the recommended order as provided under ss. 120.569
79 and 120.57. The 90-day period may be extended with the consent
80 of all the parties. An administrative hearing pursuant to
81 paragraph (4)(b) may ~~must~~ be requested no later than 35 days
82 after the date of determination of reasonable cause by the
83 commission. In any action or proceeding under this subsection,
84 the commission, in its discretion, may allow the prevailing
85 party a reasonable attorney ~~attorney's~~ fee as part of the costs.
86 Attorney ~~It is the intent of the Legislature that this provision~~
87 ~~for attorney's fees~~ must be calculated ~~interpreted~~ in a manner

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88 consistent with federal case law involving a Title VII action.

89 (7) If the commission determines that there is not
90 reasonable cause to believe that a violation of the Florida
91 Civil Rights Act of 1992 has occurred, the commission shall
92 dismiss the complaint. The aggrieved person may request an
93 administrative hearing under ss. 120.569 and 120.57, but any
94 such request must be made within 35 days after ~~of~~ the date of
95 determination of reasonable cause and any such hearing shall be
96 heard by an administrative law judge and not by the commission
97 or a commissioner. If the aggrieved person does not request an
98 administrative hearing within the 35 days, the claim will be
99 barred. If the administrative law judge finds that a violation
100 of the Florida Civil Rights Act of 1992 has occurred, he or she
101 shall issue an appropriate recommended order to the commission
102 prohibiting the discriminatory practice and recommending
103 affirmative relief from the effects of the practice, including
104 back pay. Within 90 days after ~~of~~ the date the recommended order
105 is rendered, the commission shall issue a final order by
106 adopting, rejecting, or modifying the recommended order as
107 provided under ss. 120.569 and 120.57. The 90-day period may be
108 extended with the consent of all the parties. In any action or
109 proceeding under this subsection, the commission, in its
110 discretion, may allow the prevailing party a reasonable attorney
111 ~~attorney's~~ fee as part of the costs. Attorney ~~It is the intent~~
112 ~~of the Legislature that this provision for attorney's fees must~~
113 be calculated ~~interpreted~~ in a manner consistent with federal
114 case law involving a Title VII action. In the event the final
115 order issued by the commission determines that a violation of
116 the Florida Civil Rights Act of 1992 has occurred, the aggrieved

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117 person may bring, within 1 year after ~~of~~ the date of the final
118 order, a civil action under subsection (5) as if there has been
119 a reasonable cause determination or accept the affirmative
120 relief offered by the commission, but not both.

121 (8) If ~~In the event that~~ the commission fails to conciliate
122 or determine whether there is reasonable cause on any complaint
123 under this section within 240 ~~180~~ days after ~~of~~ the filing of
124 the complaint, an aggrieved person may proceed under subsection
125 (4), as if the commission determined that there was reasonable
126 cause.

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