

By Senator Thompson

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1 A bill to be entitled
2 An act relating to the Florida Civil Rights Act;
3 amending s. 509.092, F.S.; prohibiting discrimination
4 on the basis of pregnancy in public lodging and food
5 service establishments; amending s. 760.01, F.S.;
6 revising the general purpose of the Florida Civil
7 Rights Act of 1992; amending s. 760.02, F.S.;
8 providing a definition for the term "pregnancy";
9 amending s. 760.05, F.S.; revising the function of the
10 Florida Commission on Human Relations; amending s.
11 760.07, F.S.; providing civil and administrative
12 remedies for discrimination on the basis of pregnancy;
13 amending s. 760.08, F.S.; prohibiting discrimination
14 on the basis of pregnancy in places of public
15 accommodation; amending s. 760.10, F.S.; prohibiting
16 discrimination with regard to employment benefits;
17 prohibiting employment discrimination on the basis of
18 pregnancy; prohibiting discrimination on the basis of
19 pregnancy by labor organizations, joint labor-
20 management committees, and employment agencies;
21 prohibiting discrimination on the basis of pregnancy
22 in occupational licensing, certification, and
23 membership organizations; providing an exception to
24 unlawful employment practices based on pregnancy;
25 reenacting s. 760.11(1), F.S., relating to
26 administrative and civil remedies for violations of
27 the Florida Civil Rights Act of 1992, to incorporate
28 the amendments made to s. 760.10(5), F.S., in a
29 reference thereto; providing an effective date.

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

Section 1. Section 509.092, Florida Statutes, is amended to read:

509.092 Public lodging establishments and public food service establishments; rights as private enterprises.—Public lodging establishments and public food service establishments are private enterprises, and the operator has the right to refuse accommodations or service to any person who is objectionable or undesirable to the operator, but such refusal may not be based upon race, creed, color, sex, pregnancy, physical disability, or national origin. A person aggrieved by a violation of this section or a violation of a rule adopted under this section has a right of action pursuant to s. 760.11.

Section 2. Subsection (2) of section 760.01, Florida Statutes, is amended to read:

760.01 Purposes; construction; title.—

(2) The general purposes of the Florida Civil Rights Act of 1992 are to secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals within the state.

Section 3. Subsection (12) is added to section 760.02,

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59 Florida Statutes, to read:

60 760.02 Definitions.—For the purposes of ss. 760.01-760.11
61 and 509.092, the term:

62 (12) "Pregnancy" means a woman affected by pregnancy,
63 childbirth, or a medical condition related to pregnancy or
64 childbirth.

65 Section 4. Section 760.05, Florida Statutes, is amended to
66 read:

67 760.05 Functions of the commission.—The commission shall
68 promote and encourage fair treatment and equal opportunity for
69 all persons regardless of race, color, religion, sex, pregnancy,
70 national origin, age, handicap, or marital status and mutual
71 understanding and respect among all members of all economic,
72 social, racial, religious, and ethnic groups; and shall endeavor
73 to eliminate discrimination against, and antagonism between,
74 religious, racial, and ethnic groups and their members.

75 Section 5. Section 760.07, Florida Statutes, is amended to
76 read:

77 760.07 Remedies for unlawful discrimination.—Any violation
78 of any Florida statute making unlawful discrimination because of
79 race, color, religion, gender, pregnancy, national origin, age,
80 handicap, or marital status in the areas of education,
81 employment, housing, or public accommodations gives rise to a
82 cause of action for all relief and damages described in s.
83 760.11(5), unless greater damages are expressly provided for. If
84 the statute prohibiting unlawful discrimination provides an
85 administrative remedy, the action for equitable relief and
86 damages provided for in this section may be initiated only after
87 the plaintiff has exhausted his or her administrative remedy.

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88 The term "public accommodations" does not include lodge halls or
89 other similar facilities of private organizations which are made
90 available for public use occasionally or periodically. The right
91 to trial by jury is preserved in any case in which the plaintiff
92 is seeking actual or punitive damages.

93 Section 6. Section 760.08, Florida Statutes, is amended to
94 read:

95 760.08 Discrimination in places of public accommodation.—

96 All persons are ~~shall be~~ entitled to the full and equal
97 enjoyment of the goods, services, facilities, privileges,
98 advantages, and accommodations of any place of public
99 accommodation, ~~as defined in this chapter,~~ without
100 discrimination or segregation on the ground of race, color,
101 national origin, sex, pregnancy, handicap, familial status, or
102 religion.

103 Section 7. Subsections (1) and (2), paragraphs (a) and (b)
104 of subsection (3), subsections (4) through (6), and paragraph
105 (a) of subsection (8) of section 760.10, Florida Statutes, are
106 amended to read:

107 760.10 Unlawful employment practices.—

108 (1) It is an unlawful employment practice for an employer:

109 (a) To discharge or to fail or refuse to hire any
110 individual, or otherwise to discriminate against any individual
111 with respect to compensation, benefits, terms, conditions, or
112 privileges of employment, because of such individual's race,
113 color, religion, sex, pregnancy, national origin, age, handicap,
114 or marital status.

115 (b) To limit, segregate, or classify employees or
116 applicants for employment in any way which would deprive or tend

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117 to deprive any individual of employment opportunities, or
118 adversely affect any individual's status as an employee, because
119 of such individual's race, color, religion, sex, pregnancy,
120 national origin, age, handicap, or marital status.

121 (2) It is an unlawful employment practice for an employment
122 agency to fail or refuse to refer for employment, or otherwise
123 to discriminate against, any individual because of race, color,
124 religion, sex, pregnancy, national origin, age, handicap, or
125 marital status or to classify or refer for employment any
126 individual on the basis of race, color, religion, sex,
127 pregnancy, national origin, age, handicap, or marital status.

128 (3) It is an unlawful employment practice for a labor
129 organization:

130 (a) To exclude or to expel from its membership, or
131 otherwise to discriminate against, any individual because of
132 race, color, religion, sex, pregnancy, national origin, age,
133 handicap, or marital status.

134 (b) To limit, segregate, or classify its membership or
135 applicants for membership, or to classify or fail or refuse to
136 refer for employment any individual, in any way which would
137 deprive or tend to deprive any individual of employment
138 opportunities, or adversely affect any individual's status as an
139 employee or as an applicant for employment, because of such
140 individual's race, color, religion, sex, pregnancy, national
141 origin, age, handicap, or marital status.

142 (4) It is an unlawful employment practice for any employer,
143 labor organization, or joint labor-management committee
144 controlling apprenticeship or other training or retraining,
145 including on-the-job training programs, to discriminate against

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146 any individual because of race, color, religion, sex, pregnancy,
147 national origin, age, handicap, or marital status in admission
148 to, or employment in, any program established to provide
149 apprenticeship or other training.

150 (5) Whenever, in order to engage in a profession,
151 occupation, or trade, it is required that a person receive a
152 license, certification, or other credential, become a member or
153 an associate of any club, association, or other organization, or
154 pass any examination, it is an unlawful employment practice for
155 any person to discriminate against any other person seeking such
156 license, certification, or other credential, seeking to become a
157 member or associate of such club, association, or other
158 organization, or seeking to take or pass such examination,
159 because of such other person's race, color, religion, sex,
160 pregnancy, national origin, age, handicap, or marital status.

161 (6) It is an unlawful employment practice for an employer,
162 labor organization, employment agency, or joint labor-management
163 committee to print, or cause to be printed or published, any
164 notice or advertisement relating to employment, membership,
165 classification, referral for employment, or apprenticeship or
166 other training, indicating any preference, limitation,
167 specification, or discrimination, based on race, color,
168 religion, sex, pregnancy, national origin, age, absence of
169 handicap, or marital status.

170 (8) Notwithstanding any other provision of this section, it
171 is not an unlawful employment practice under ss. 760.01-760.10
172 for an employer, employment agency, labor organization, or joint
173 labor-management committee to:

174 (a) Take or fail to take any action on the basis of

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175 religion, sex, pregnancy, national origin, age, handicap, or
176 marital status in those certain instances in which religion,
177 sex, condition of pregnancy, national origin, age, absence of a
178 particular handicap, or marital status is a bona fide
179 occupational qualification reasonably necessary for the
180 performance of the particular employment to which such action or
181 inaction is related.

182 Section 8. For the purpose of incorporating the amendment
183 made by this act to section 760.10(5), Florida Statutes, in a
184 reference thereto, subsection (1) of section 760.11, Florida
185 Statutes, is reenacted to read:

186 760.11 Administrative and civil remedies; construction.—

187 (1) Any person aggrieved by a violation of ss. 760.01-
188 760.10 may file a complaint with the commission within 365 days
189 of the alleged violation, naming the employer, employment
190 agency, labor organization, or joint labor-management committee,
191 or, in the case of an alleged violation of s. 760.10(5), the
192 person responsible for the violation and describing the
193 violation. Any person aggrieved by a violation of s. 509.092 may
194 file a complaint with the commission within 365 days of the
195 alleged violation naming the person responsible for the
196 violation and describing the violation. The commission, a
197 commissioner, or the Attorney General may in like manner file
198 such a complaint. On the same day the complaint is filed with
199 the commission, the commission shall clearly stamp on the face
200 of the complaint the date the complaint was filed with the
201 commission. In lieu of filing the complaint with the commission,
202 a complaint under this section may be filed with the federal
203 Equal Employment Opportunity Commission or with any unit of

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204 government of the state which is a fair-employment-practice
205 agency under 29 C.F.R. ss. 1601.70-1601.80. If the date the
206 complaint is filed is clearly stamped on the face of the
207 complaint, that date is the date of filing. The date the
208 complaint is filed with the commission for purposes of this
209 section is the earliest date of filing with the Equal Employment
210 Opportunity Commission, the fair-employment-practice agency, or
211 the commission. The complaint shall contain a short and plain
212 statement of the facts describing the violation and the relief
213 sought. The commission may require additional information to be
214 in the complaint. The commission, within 5 days of the complaint
215 being filed, shall by registered mail send a copy of the
216 complaint to the person who allegedly committed the violation.
217 The person who allegedly committed the violation may file an
218 answer to the complaint within 25 days of the date the complaint
219 was filed with the commission. Any answer filed shall be mailed
220 to the aggrieved person by the person filing the answer. Both
221 the complaint and the answer shall be verified.

222 Section 9. This act shall take effect July 1, 2014.