

1 A bill to be entitled

2 An act relating to access to clinics; providing a
3 directive to the Division of Law Revision and
4 Information; creating s. 762.01, F.S.; providing a
5 short title; creating s. 762.02, F.S.; defining terms;
6 creating s. 762.03, F.S.; defining the term "minor
7 child or ward"; prohibiting a person from committing
8 certain acts against reproductive health services
9 clients, providers, or assistants; prohibiting a
10 person from damaging certain properties; providing
11 penalties; providing construction; creating s. 762.04,
12 F.S.; providing criminal penalties and fines;
13 providing enhanced penalties for second or subsequent
14 offenses; providing requirements for departures from
15 the sentences and fines; creating s. 762.05, F.S.;
16 providing civil remedies for those aggrieved by
17 specified violations against reproductive health
18 services clients, providers, or assistants or against
19 certain properties; authorizing the Attorney General,
20 a state attorney, or a city attorney to bring a civil
21 action for such violations; creating s. 762.06, F.S.;
22 requiring a court to take actions necessary to
23 safeguard the health, safety, or privacy of certain
24 people and entities under certain circumstances,
25 including granting restraining orders to specified

26 | persons, placing restrictions on the photographing of
 27 | specified persons, and authorizing specified persons
 28 | to use pseudonyms in a civil action; providing an
 29 | effective date.

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

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33 | Section 1. The Division of Law Revision and Information is
 34 | directed to create chapter 762, Florida Statutes, consisting of
 35 | ss. 762.01-762.06, Florida Statutes, to be entitled "Protection
 36 | of the Exercise of Constitutional Rights."

37 | Section 2. Section 762.01, Florida Statutes, is created to
 38 | read:

39 | 762.01 Short title.—Sections 762.01-762.06 may be cited as
 40 | the "Florida Freedom of Access to Clinic Entrances Act" or the
 41 | "Florida FACE Act."

42 | Section 3. Section 762.02, Florida Statutes, is created to
 43 | read:

44 | 762.02 Definitions.—As used in ss. 762.01-762.06, the
 45 | term:

46 | (1) "Crime of violence" means an offense that involves the
 47 | use or attempted or threatened use of physical force against the
 48 | person or property of another.

49 | (2) "Interfere with" means to restrict a person's freedom
 50 | of movement.

51 (3) "Intimidate" means to place a person in reasonable
52 apprehension of bodily harm to herself or himself or to another.

53 (4) "Nonviolent" means conduct that would not constitute a
54 crime of violence.

55 (5) "Physical obstruction" means rendering ingress to or
56 egress from a reproductive health services facility impassable
57 to another person, or rendering passage to or from a
58 reproductive health services facility unreasonably difficult or
59 hazardous to another person.

60 (6) "Reproductive health services" means reproductive
61 health services provided in a hospital, clinic, physician's
62 office, or other facility and includes medical, surgical,
63 counseling, or referral services relating to the human
64 reproductive system, including services relating to pregnancy or
65 the termination of a pregnancy.

66 (7) "Reproductive health services client, provider, or
67 assistant" means a person or entity that is or was involved in
68 obtaining or seeking to obtain, providing or seeking to provide,
69 or assisting or seeking to assist another person at that other
70 person's request to obtain or provide any services in a
71 reproductive health services facility, or a person or entity
72 that is or was involved in owning or operating, or seeking to
73 own or operate, a reproductive health services facility.

74 (8) "Reproductive health services facility" means a
75 hospital, clinic, physician's office, or other facility that

76 provides or seeks to provide reproductive health services and
 77 includes the building or structure in which the facility is
 78 located.

79 Section 4. Section 762.03, Florida Statutes, is created to
 80 read:

81 762.03 Prohibited acts.—

82 (1) As used in this section, the term "minor child or
 83 ward" means a person's child or legal guardian's ward who is 16
 84 years of age or younger.

85 (2) A person may not commit any of the following acts:

86 (a) Intentionally injuring, intimidating, interfering
 87 with, or attempting to injure, intimidate, or interfere with a
 88 person or an entity by force, threat of force, or physical
 89 obstruction because that person or entity is a reproductive
 90 health services client, provider, or assistant, or in order to
 91 intimidate a person or entity, or a class of persons or
 92 entities, from becoming or remaining a reproductive health
 93 services client, provider, or assistant or reproductive health
 94 services clients, providers, or assistants.

95 (b) Intentionally injuring, intimidating, interfering
 96 with, or attempting to injure, intimidate, or interfere with, by
 97 nonviolent physical obstruction, a person or entity because that
 98 person or entity is a reproductive health services client,
 99 provider, or assistant, or in order to intimidate a person or
 100 entity, or a class of persons or entities, from becoming or

101 remaining a reproductive health services client, provider, or
102 assistant or reproductive health services clients, providers, or
103 assistants.

104 (c) Intentionally damaging or destroying a facility or the
105 property of a person or entity, or attempting to do so, because
106 the facility, person, or entity is a reproductive health
107 services client, provider, assistant, or facility.

108 (3) A person who violates this section is subject to the
109 penalties specified in s. 762.04.

110 (4) This section does not prohibit a parent or legal
111 guardian from restricting a minor child or ward's access to a
112 reproductive health services facility.

113 Section 5. Section 762.04, Florida Statutes, is created to
114 read:

115 762.04 Penalties.—

116 (1) A person who violates s. 762.03(2)(b) for the first
117 time commits a misdemeanor of the second degree, punishable by
118 imprisonment in a county jail not exceeding 6 months and by a
119 fine not exceeding \$2,000. A second or subsequent offense
120 constitutes a misdemeanor of the second degree, punishable by
121 imprisonment in a county jail not exceeding 6 months and by a
122 fine not exceeding \$5,000.

123 (2) A person who violates s. 762.03(2)(a) or (c) for the
124 first time commits a misdemeanor of the first degree, punishable
125 by imprisonment in a county jail not exceeding 1 year and by a

126 fine not exceeding \$25,000. A second or subsequent offense
127 constitutes a misdemeanor of the first degree, punishable by
128 imprisonment in a county jail not exceeding 1 year and by a fine
129 not exceeding \$50,000.

130 (3) Departures from the presumptive sentences and fines
131 established in this section shall be articulated in writing and
132 made when circumstances or factors reasonably justify the
133 aggravation or mitigation of the sentence and fines.

134 Section 6. Section 762.05, Florida Statutes, is created to
135 read:

136 762.05 Civil actions.-

137 (1) A person aggrieved by a violation of s. 762.03 may
138 bring a civil action to enjoin the violation, for compensatory
139 and punitive damages, and for the costs of the suit and
140 reasonable fees for attorneys and expert witnesses, except that
141 only a reproductive health services client, provider, or
142 assistant may bring an action for a violation under s.
143 762.03(2)(a), (b), or (c). With respect to compensatory damages,
144 the plaintiff may elect, at any time before the rendering of a
145 final judgment, to recover, in lieu of actual damages, an award
146 of statutory damages in the amount of \$1,000 for each
147 exclusively nonviolent violation and \$5,000 for each violation
148 other than an exclusively nonviolent violation.

149 (2) The Attorney General, a state attorney, or a city
150 attorney may bring a civil action to enjoin a violation under s.

151 762.03 for compensatory damages to persons aggrieved, as
152 described in subsection (1), and for the assessment of a civil
153 penalty against each respondent. The civil penalty may not
154 exceed \$2,000 for an exclusively nonviolent first violation and
155 \$15,000 for any other first violation, and may not exceed \$5,000
156 for a subsequent exclusively nonviolent violation and \$25,000
157 for any other subsequent violation.

158 Section 7. Section 762.06, Florida Statutes, is created to
159 read:

160 762.06 Safety and privacy.—

161 (1) A court in which a criminal or civil proceeding is
162 filed for a violation under s. 762.03(2)(a), (b), or (c) shall
163 take all action reasonably required, including granting
164 restraining orders, to safeguard the health, safety, or privacy
165 of:

166 (a) A reproductive health services client, provider, or
167 assistant who is a party or witness in the proceeding; and

168 (b) A person who is a victim of, or is at risk of becoming
169 a victim of, an act prohibited under s. 762.03(2)(a), (b), or
170 (c).

171 (2) A restraining order issued pursuant to this section
172 may include provisions prohibiting or restricting the
173 photographing of a person described in subsection (1) if
174 reasonably required to safeguard the person's health, safety, or
175 privacy.

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176 (3) A court may authorize a person described in subsection
177 (1) to use a pseudonym in a civil action described in s. 726.05
178 if reasonably required to safeguard the person's health, safety,
179 or privacy.

180 Section 8. This act shall take effect July 1, 2017.