

By Senator Stewart

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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 term:

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

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

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

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

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

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

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

73 (8) "Reproductive health services facility" means a
74 hospital, clinic, physician's office, or other facility that
75 provides or seeks to provide reproductive health services and
76 includes the building or structure in which the facility is
77 located.

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

80 762.03 Prohibited acts.—

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

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

85 (a) Intentionally injuring, intimidating, interfering with,
86 or attempting to injure, intimidate, or interfere with a person
87 or an entity by force, threat of force, or physical obstruction

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88 because that person or entity is a reproductive health services
89 client, provider, or assistant, or in order to intimidate a
90 person or entity, or a class of persons or entities, from
91 becoming or remaining a reproductive health services client,
92 provider, or assistant or reproductive health services clients,
93 providers, or assistants.

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

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

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

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

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

114 762.04 Penalties.-

115 (1) A person who violates s. 762.03(2)(b) for the first
116 time commits a misdemeanor of the second degree, punishable by

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117 imprisonment in a county jail not exceeding 6 months and by a
118 fine not exceeding \$2,000. A second or subsequent offense
119 constitutes a misdemeanor of the second degree, punishable by
120 imprisonment in a county jail not exceeding 6 months and by a
121 fine not exceeding \$5,000.

122 (2) A person who violates s. 762.03(2) (a) or (c) for the
123 first time commits a misdemeanor of the first degree, punishable
124 by imprisonment in a county jail not exceeding 1 year and by a
125 fine not exceeding \$25,000. A second or subsequent offense
126 constitutes a misdemeanor of the first degree, punishable by
127 imprisonment in a county jail not exceeding 1 year and by a fine
128 not exceeding \$50,000.

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

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

135 762.05 Civil actions.-

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

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146 exclusively nonviolent violation and \$5,000 for each violation
147 other than an exclusively nonviolent violation.

148 (2) The Attorney General, a state attorney, or a city
149 attorney may bring a civil action to enjoin a violation under s.
150 762.03 for compensatory damages to persons aggrieved, as
151 described in subsection (1), and for the assessment of a civil
152 penalty against each respondent. The civil penalty may not
153 exceed \$2,000 for an exclusively nonviolent first violation and
154 \$15,000 for any other first violation, and may not exceed \$5,000
155 for a subsequent exclusively nonviolent violation and \$25,000
156 for any other subsequent violation.

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

159 762.06 Safety and privacy.-

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

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

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

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

174 (3) A court may authorize a person described in subsection

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175 (1) to use a pseudonym in a civil action described in s. 726.05
176 if reasonably required to safeguard the person's health, safety,
177 or privacy.

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