

1 A bill to be entitled  
 2 An act relating to employment discrimination; creating  
 3 s. 448.077, F.S.; providing definitions; prohibiting  
 4 an employer from taking retaliatory personnel action  
 5 against an employee who has left a place of employment  
 6 to evacuate under an emergency evacuation order;  
 7 providing exceptions; providing employee remedies and  
 8 relief; providing for attorney fees and costs;  
 9 providing applicability; providing an effective date.

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

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 13 Section 1. Section 448.077, Florida Statutes, is created  
 14 to read:

15 448.077 Employment discrimination on basis of  
 16 participation in emergency evacuation prohibited.—

17 (1) DEFINITIONS.—As used in this section, the term:

18 (a) "Emergency" has the same meaning as defined in s.  
 19 252.34.

20 (b) "Emergency evacuation order" means an official  
 21 statement issued by the President of the United States, the  
 22 Governor, or a political subdivision of this state to mandate  
 23 the evacuation of all or part of the population of an area  
 24 stricken or threatened by an emergency.

25 (c) "Emergency personnel" means a law enforcement officer

26 | as defined in s. 943.10, a firefighter as defined in s. 633.102,  
27 | an emergency medical technician or paramedic as defined in s.  
28 | 401.23, or other individuals who are required, in the course and  
29 | scope of their employment, to provide services for the benefit  
30 | of the general public during an emergency.

31 | (d) "Employee" means a person who performs services for  
32 | and under the control and direction of an employer for wages or  
33 | other remuneration.

34 | (e) "Employer" means a person who employs one or more  
35 | employees.

36 | (f) "Retaliatory personnel action" means the discharge,  
37 | suspension, or demotion by an employer of an employee or any  
38 | other adverse employment action taken by an employer against an  
39 | employee in the terms and conditions of employment.

40 | (g) "Vital services" means only the utility and roadway  
41 | services necessary immediately after an emergency.

42 | (2) DISCRIMINATION PROHIBITED.—An employer may not take  
43 | any retaliatory personnel action against an employee if the  
44 | employee:

45 | (a) Left the employee's place of employment to evacuate  
46 | under an emergency evacuation order.

47 | (b) Evacuated because the employee's residence or place of  
48 | employment was included in the mandatory evacuation zone.

49 | (c) Returns to work within 14 days after the state of  
50 | emergency is lifted or by a time agreed upon between the

51 employee and employer.

52 (3) EMPLOYEE'S REMEDY; RELIEF.—

53 (a)1. An employee who has been the object of a retaliatory  
54 personnel action in violation of subsection (2) may institute a  
55 civil action in a court of competent jurisdiction for relief as  
56 set forth in paragraph (b) within 2 years after discovering that  
57 the alleged retaliatory personnel action was taken, or within 4  
58 years after the personnel action was taken, whichever is  
59 earlier.

60 2. Any civil action authorized under this subsection may  
61 be brought in the county in which the alleged retaliatory  
62 personnel action occurred, in which the complainant resides, or  
63 in which the employer has its principal place of business.

64 3. An employee may not recover in any action brought  
65 pursuant to this subsection if he or she failed to notify the  
66 employer about the applicable evacuation order or if the  
67 retaliatory personnel action was predicated upon a ground other  
68 than the employee's exercise of a right protected by this  
69 section.

70 (b) In any action brought pursuant to paragraph (a), the  
71 court may order relief as follows:

72 1. An injunction restraining continued violation of this  
73 section.

74 2. Reinstatement of the employee to the same position held  
75 before the retaliatory personnel action, or to an equivalent

76 position.

77 3. Reinstatement of full fringe benefits and seniority  
78 rights.

79 4. Compensation for lost wages, benefits, and other  
80 remuneration.

81 5. Any other compensatory damages allowable by law.

82 (4) ATTORNEY FEES AND COSTS.—A court may award reasonable  
83 attorney fees, court costs, and expenses to the prevailing  
84 party.

85 (5) APPLICABILITY.—This section does not apply to:

86 (a) Individuals employed as emergency personnel if the  
87 employer provides adequate emergency shelter for those  
88 individuals.

89 (b) A person who is necessary to provide for the safety  
90 and well-being of the general public, including a person  
91 necessary for the restoration of vital services.

92 (c) Individuals employed at a nursing home facility, as  
93 defined in s. 400.021; hospice, as defined in s. 400.601;  
94 assisted living facility, as defined in s. 429.02; or hospital,  
95 as defined in s. 395.002.

96 Section 2. This act shall take effect July 1, 2018.