

By Senator Stewart

13-00894A-19

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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; creating s.
4 762.01, F.S.; providing a short title; creating s.
5 762.02, F.S.; defining terms; creating s. 762.03,
6 F.S.; defining the term "minor child or ward";
7 prohibiting a person from committing certain acts
8 against reproductive health services clients,
9 providers, or assistants; prohibiting a person from
10 damaging certain properties; providing penalties;
11 providing construction; creating s. 762.04, F.S.;
12 providing criminal penalties and fines for first
13 offenses and for second and subsequent offenses;
14 providing requirements for departures from the
15 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 specified
24 persons under certain circumstances, including
25 granting restraining orders that may prohibit or
26 restrict the photographing of such persons;
27 authorizing the court to authorize specified persons
28 to use pseudonyms in a civil action; providing an
29 effective date.

13-00894A-19

2019412__

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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 is directed to
34 create chapter 762, Florida Statutes, consisting of ss. 762.01-
35 762.06, Florida Statutes, to be entitled "Protection of the
36 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 "Clinic Protection Act."

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

43 762.02 Definitions.—As used in ss. 762.01-762.06, the term:

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

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

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

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

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

58 (6) "Reproductive health services" means reproductive

13-00894A-19

2019412__

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

64 (7) "Reproductive health services client, provider, or
65 assistant" means a person or entity that is or was involved in:

66 (a) Obtaining or seeking to obtain any services in a
67 reproductive health services facility;

68 (b) Providing or seeking to provide any services in a
69 reproductive health services facility;

70 (c) Assisting or seeking to assist another person at that
71 other person's request to obtain or provide any services in a
72 reproductive health services facility; or

73 (d) Owning or operating, or seeking to own or operate, a
74 reproductive health services facility.

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

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

82 762.03 Prohibited acts.—

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

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

87 (a) Intentionally injuring, intimidating, or interfering

13-00894A-19

2019412__

88 with, or attempting to injure, intimidate, or interfere with, a
89 person or an entity by force, threat of force, or physical
90 obstruction because that person or entity is a reproductive
91 health services client, provider, or assistant, or in order to
92 intimidate that person or entity from becoming or remaining a
93 reproductive health services client, provider, or assistant.

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

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

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

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

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

113 762.04 Penalties.—

114 (1) A person who violates s. 762.03(2)(b) for the first
115 time commits a misdemeanor of the second degree, punishable by
116 imprisonment in a county jail not exceeding 6 months and by a

13-00894A-19

2019412__

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

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

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

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

134 762.05 Civil actions.—

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

13-00894A-19

2019412__

146 exclusively nonviolent violation.

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

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

158 762.06 Safety and privacy.—

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

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

165 (b) A person who is a victim of, or is at risk of becoming
166 a victim of, an act prohibited under s. 762.03(2).

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

171 (3) A court may authorize a person described in subsection
172 (1) to use a pseudonym in a civil action described in s. 762.05
173 if reasonably required to safeguard the person's health, safety,
174 or privacy.

13-00894A-19

2019412__

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Section 8. This act shall take effect July 1, 2019.