

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; 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 criminal
11 penalties; providing construction; creating s. 762.04,
12 F.S.; providing criminal penalties for first offenses
13 and for second and subsequent offenses; authorizing a
14 court to deviate from the required sentences and fines
15 under certain circumstances; 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 allow specified persons to
28 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 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 this chapter, 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 reproductive
56 health services facility unreasonably difficult or hazardous to
57 another person.

58 (6) "Reproductive health services" means health services

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59 provided in a hospital, clinic, physician's office, or other
60 facility and includes medical, surgical, counseling, or referral
61 services relating to the human reproductive system, including,
62 but not limited to, services relating to pregnancy or the
63 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 a legal guardian's ward who is 16
85 years of age or younger.

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

87 (a) Intentionally injuring, intimidating, or interfering

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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 to do so with
92 the intent to prevent that person or entity from becoming or
93 remaining a reproductive health services client, provider, or
94 assistant.

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

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

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

110 (4) This section does not prohibit a parent or a 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

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117 time commits a misdemeanor of the second degree, punishable by
118 imprisonment in a county jail for a period not exceeding 6
119 months and by a fine not exceeding \$2,000. A second or
120 subsequent offense constitutes a misdemeanor of the second
121 degree, punishable by imprisonment in a county jail for a period
122 not exceeding 6 months and by a 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 for a period not exceeding 1
126 year and by a fine not exceeding \$25,000. A second or subsequent
127 offense constitutes a misdemeanor of the first degree,
128 punishable by imprisonment for a period in a county jail not
129 exceeding 1 year and by a fine not exceeding \$50,000.

130 (3) A court may deviate from the sentences and fines
131 established in this section when circumstances or factors in a
132 case reasonably justify the enhancement or mitigation of the
133 sentences and fines, provided the court states in writing the
134 reasons for its sentencing decision.

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

137 762.05 Civil actions.-

138 (1) A person aggrieved by a violation of s. 762.03 may
139 bring a civil action to enjoin the violation, for compensatory
140 and punitive damages, and for the costs of the action and
141 reasonable fees for attorneys and expert witnesses, except that
142 only a reproductive health services client, provider, or
143 assistant may bring an action for a violation of s. 762.03(2).
144 With respect to compensatory damages, the plaintiff may elect,
145 at any time before the rendering of a final judgment, to

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146 recover, in lieu of actual damages, an award of statutory
147 damages in the amount of \$1,000 for each exclusively nonviolent
148 violation and \$5,000 for each violation other than an
149 exclusively nonviolent violation.

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

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

161 762.06 Safety and privacy.—

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

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 necessary
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. 762.05
176 if reasonably required to safeguard the person's health, safety,
177 or privacy.

178 Section 8. This act shall take effect July 1, 2021.