Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)

ADOPTED AS AMENDED ___ (Y/N)

ADOPTED W/O OBJECTION ___ (Y/N)

FAILED TO ADOPT ___ (Y/N)

WITHDRAWN ___ (Y/N)

OTHER ______

Committee/Subcommittee hearing bill: Health Care Appropriations Subcommittee
Representative Smith, C. offered the following:

Amendment (with title amendment)

Between lines 308 and 309, insert:

Section 7. Section 762.01, Florida Statutes, is created to read:

762.01 Short title.—Sections 762.01-762.06 may be cited as the "Clinic Protection Act."

Section 8. Section 762.02, Florida Statutes, is created to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 9. Section 762.03, Florida Statutes, is created to read:

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

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

(a) Intentionally injuring, intimidating, or interfering with, or attempting to injure, intimidate, or interfere with, a person or an entity by force, threat of force, or physical obstruction because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate that person or entity from becoming or remaining a reproductive health services client, provider, or assistant.

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

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

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

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

Section 10. Section 762.04, Florida Statutes, is created to read:

762.04 Penalties.—

(1) A person who violates s. 762.03(2)(b) for the first time commits a misdemeanor of the second degree, punishable by imprisonment in a county jail not exceeding 6 months and by a fine not exceeding $2,000. A second or subsequent offense constitutes a misdemeanor of the second degree, punishable by imprisonment in a county jail not exceeding 6 months and by a fine not exceeding $5,000.
(2) A person who violates s. 762.03(2)(a) or (c) for the first time commits a misdemeanor of the first degree, punishable by imprisonment in a county jail not exceeding 1 year and by a fine not exceeding $25,000. A second or subsequent offense constitutes a misdemeanor of the first degree, punishable by imprisonment in a county jail not exceeding 1 year and by a fine not exceeding $50,000.

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

Section 11. Section 762.05, Florida Statutes, is created to read:

762.05 Civil actions.—

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

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

Section 12. Section 762.06, Florida Statutes, is created to read:

762.06 Safety and privacy.—

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

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

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

(2) A restraining order issued pursuant to this section may include provisions prohibiting or restricting the photographing of a person described in subsection (1) if reasonably required to safeguard the person's health, safety, or
(3) A court may authorize a person described in subsection (1) to use a pseudonym in a civil action described in s. 762.05 if reasonably required to safeguard the person’s health, safety, or privacy.

Title Amendment

Remove line 40 and insert:
Public Health; An act relating to access to clinics; providing a directive to the Division of Law Revision; creating s. 762.01, F.S.; providing a short title; creating s. 762.02, F.S.; defining terms; creating s. 762.03, F.S.; defining the term "minor child or ward"; prohibiting a person from committing certain acts against reproductive health services clients, providers, or assistants; prohibiting a person from damaging certain properties; providing penalties; providing construction; creating s. 762.04, F.S.; providing criminal penalties and fines for first offenses and for second and subsequent offenses; providing requirements for departures from the sentences and fines; creating s. 762.05, F.S.; providing civil remedies for those aggrieved by specified violations against reproductive health services clients, providers, or assistants or against certain properties; authorizing the Attorney General, a state
attorney, or a city attorney to bring a civil action for such violations; creating s. 762.06, F.S.; requiring a court to take actions necessary to safeguard the health, safety, or privacy of specified persons under certain circumstances, including granting restraining orders that may prohibit or restrict the photographing of such persons; authorizing the court to authorize specified persons to use pseudonyms in a civil action; providing an appropriation; providing