

By Senator Berman

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1 A bill to be entitled
2 An act relating to protection of the right to an
3 abortion; creating s. 797.04, F.S.; finding and
4 declaring that a woman has a protected right to an
5 abortion; creating a rebuttable presumption concerning
6 viability of a fetus; providing for civil liability
7 for certain persons who violate such a right;
8 providing for punitive damages; providing for
9 compensatory damages, costs, and attorney fees;
10 providing for state payment of awards against indigent
11 defendants; providing for liens against such indigent
12 defendants; providing for employer liability; amending
13 s. 95.11, F.S.; providing a statute of limitations
14 period for actions for the deprivation of the right to
15 an abortion; providing an effective date.

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

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19 Section 1. Section 797.04, Florida Statutes, is created to
20 read:

21 797.04 Right to an abortion.-

22 (1) The Legislature finds and declares that s. 23, Art. I
23 of the State Constitution concerning right of privacy protects a
24 woman's right to abortion as the Florida Supreme Court held in
25 In re T.W., 551 So.2d 1186 (1989).

26 (2) A woman has the right to terminate a pregnancy until
27 that point in time when the fetus becomes capable of meaningful
28 life outside the womb through standard medical measures. There
29 is a rebuttable presumption that this point occurs at the end of

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30 the second trimester.

31 (3) A person or entity that takes any action under color of
32 law which violates a woman's right under subsection (2) is
33 liable as provided in this section.

34 (4) A woman whose right under subsection (2) is violated
35 shall have a cause of action for compensatory damages as well as
36 \$10,000 in punitive damages from each violator. A successful
37 plaintiff under this section is also entitled to an award of
38 reasonable attorney fees and costs.

39 (5) If a defendant is indigent and unable to pay all or
40 part of an award under subsection (4), the state shall,
41 notwithstanding chapter 768, be liable for the entire unpaid
42 amount of the award and shall pay such amount of the award that
43 is not paid by the defendant. The state shall have a lien
44 against the income and property of such defendant for the amount
45 paid by the state under this subsection.

46 (6) An employer is liable for the acts of an employee
47 acting within the scope of his or her employment which violate
48 this section.

49 Section 2. Subsection (13) is added to section 95.11,
50 Florida Statutes, to read:

51 95.11 Limitations other than for the recovery of real
52 property.—Actions other than for recovery of real property shall
53 be commenced as follows:

54 (13) WITHIN TWENTY-ONE YEARS.—Any action under s. 797.04
55 for deprivation of the right to an abortion.

56 Section 3. This act shall take effect July 1, 2024.