

By Senator Stewart

13-00454-18

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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 and
4 Information; creating s. 762.01, F.S.; providing a
5 short title; creating s. 762.02, F.S.; defining terms;
6 creating s. 762.03, F.S.; defining the term "minor
7 child or ward"; prohibiting a person from committing
8 certain acts against reproductive health services
9 clients, providers, or assistants; prohibiting a
10 person from damaging certain properties; providing
11 penalties; providing construction; creating s. 762.04,
12 F.S.; 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.

13-00454-18

2018320__

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

13-00454-18

2018320__

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

13-00454-18

2018320__

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 or reproductive health services
101 clients, providers, or assistants.

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

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

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

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

114 762.04 Penalties.-

115 (1) A person who violates s. 762.03(2)(b) for the first
116 time commits a misdemeanor of the second degree, punishable by

13-00454-18

2018320__

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

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

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

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

135 762.05 Civil actions.-

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

13-00454-18

2018320__

146 violation and \$5,000 for each violation other than an
147 exclusively nonviolent violation.

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

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

159 762.06 Safety and privacy.-

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

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

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

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

172 (3) A court may authorize a person described in subsection
173 (1) to use a pseudonym in a civil action described in s. 726.05
174 if reasonably required to safeguard the person's health, safety,

13-00454-18

2018320__

175 or privacy.

176 Section 8. This act shall take effect July 1, 2018.