

By Senator Clemens

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1 A bill to be entitled
2 An act relating to prohibited discrimination; creating
3 the "Florida Competitive Workforce Act"; amending s.
4 509.092, F.S.; adding sexual orientation and gender
5 identity as impermissible grounds for discrimination
6 in public lodging establishments and public food
7 service establishments; providing an exception for
8 constitutionally protected free exercise of religion;
9 amending s. 760.01, F.S.; revising the purposes of the
10 Florida Civil Rights Act of 1992 to conform to changes
11 made by the act; reordering and amending s. 760.02,
12 F.S.; defining the terms "gender identity" and "sexual
13 orientation"; amending s. 760.05, F.S.; revising the
14 functions of the Florida Commission on Human
15 Relations, to conform; amending s. 760.07, F.S.;
16 revising provisions regarding remedies for unlawful
17 discrimination to include discrimination based on
18 sexual orientation and gender identity, to conform;
19 amending s. 760.08, F.S.; adding sexual orientation
20 and gender identity as impermissible grounds for
21 discrimination in places of public accommodation;
22 amending s. 760.10, F.S.; adding sexual orientation
23 and gender identity as impermissible grounds for
24 discrimination with respect to specified unlawful
25 employment practices; providing an exception for
26 constitutionally protected free exercise of religion;
27 amending s. 760.22, F.S.; defining the terms "gender
28 identity" and "sexual orientation" for purposes of the
29 Fair Housing Act; amending ss. 760.23, 760.24, 760.25,

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30 and 760.26, F.S.; adding sexual orientation and gender
31 identity as impermissible grounds for discrimination
32 with respect to the sale or rental of housing,
33 provision of brokerage services, financing of housing
34 or in residential real estate transactions, and land
35 use decisions and in permitting of development,
36 respectively; amending s. 760.29, F.S.; revising an
37 exemption from the Fair Housing Act regarding the
38 appraisal of real property, to conform; amending s.
39 760.60, F.S.; adding sexual orientation and gender
40 identity as impermissible grounds for discrimination
41 with respect to practices of certain clubs; amending
42 s. 419.001, F.S.; conforming a cross-reference;
43 providing an effective date.
44

45 Be It Enacted by the Legislature of the State of Florida:
46

47 Section 1. This act may be cited as the "Florida
48 Competitive Workforce Act."

49 Section 2. Section 509.092, Florida Statutes, is amended to
50 read:

51 509.092 Public lodging establishments and public food
52 service establishments; rights as private enterprises.—

53 (1) Public lodging establishments and public food service
54 establishments are private enterprises, and the operator has the
55 right to refuse accommodations or service to any person who is
56 objectionable or undesirable to the operator, but such refusal
57 may not be based upon race, creed, color, sex, pregnancy,
58 physical disability, sexual orientation, gender identity, or

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59 national origin.

60 (2) A person aggrieved by a violation of this section or a
61 violation of a rule adopted under this section has a right of
62 action pursuant to s. 760.11.

63 (3) This section does not limit the free exercise of
64 religion guaranteed by the United States Constitution and the
65 State Constitution.

66 Section 3. Subsection (1) of section 760.01, Florida
67 Statutes, is republished, and subsection (2) of that section is
68 amended, to read:

69 760.01 Purposes; construction; title.—

70 (1) Sections 760.01-760.11 and 509.092 shall be cited as
71 the "Florida Civil Rights Act of 1992."

72 (2) The general purposes of the Florida Civil Rights Act of
73 1992 are to secure for all individuals within the state freedom
74 from discrimination because of race, color, religion, sex,
75 pregnancy, national origin, age, sexual orientation, gender
76 identity, handicap, or marital status and thereby to protect
77 their interest in personal dignity, to make available to the
78 state their full productive capacities, to secure the state
79 against domestic strife and unrest, to preserve the public
80 safety, health, and general welfare, and to promote the
81 interests, rights, and privileges of individuals within the
82 state.

83 Section 4. Section 760.02, Florida Statutes, is reordered
84 and amended to read:

85 760.02 Definitions.—For the purposes of ss. 760.01-760.11
86 and 509.092, the term:

87 (7)~~(1)~~ "Florida Civil Rights Act of 1992" means ss. 760.01-

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88 760.11 and 509.092.

89 (2) "Commission" means the Florida Commission on Human
90 Relations created by s. 760.03.

91 (3) "Commissioner" or "member" means a member of the
92 commission.

93 (4) "Discriminatory practice" means any practice made
94 unlawful by the Florida Civil Rights Act of 1992.

95 (10)~~(5)~~ "National origin" includes ancestry.

96 (11)~~(6)~~ "Person" includes an individual, association,
97 corporation, joint apprenticeship committee, joint-stock
98 company, labor union, legal representative, mutual company,
99 partnership, receiver, trust, trustee in bankruptcy, or
100 unincorporated organization; any other legal or commercial
101 entity; the state; or any governmental entity or agency.

102 (5)~~(7)~~ "Employer" means any person employing 15 or more
103 employees for each working day in each of 20 or more calendar
104 weeks in the current or preceding calendar year, and any agent
105 of such a person.

106 (6)~~(8)~~ "Employment agency" means any person regularly
107 undertaking, with or without compensation, to procure employees
108 for an employer or to procure for employees opportunities to
109 work for an employer, and includes an agent of such a person.

110 (8) "Gender identity" means gender-related identity,
111 appearance, or behavior, regardless of whether such gender-
112 related identity, appearance, or behavior is different from that
113 traditionally associated with the person's physiology or
114 assigned sex at birth, and which gender-related identity can be
115 shown by the person providing evidence, including, but not
116 limited to:

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117 (a) Medical history, care, or treatment of the gender-
118 related identity;

119 (b) Consistent and uniform assertion of the gender-related
120 identity; or

121 (c) Other evidence that the gender-related identity is a
122 sincerely held part of a person's core identity and is not being
123 asserted for an improper purpose.

124 (9) "Labor organization" means any organization which
125 exists for the purpose, in whole or in part, of collective
126 bargaining or of dealing with employers concerning grievances,
127 terms or conditions of employment, or other mutual aid or
128 protection in connection with employment.

129 (1) ~~(10)~~ "Aggrieved person" means any person who files a
130 complaint with the Florida Commission on Human Relations
131 Commission.

132 (12) ~~(11)~~ "Public accommodations" means places of public
133 accommodation, lodgings, facilities principally engaged in
134 selling food for consumption on the premises, gasoline stations,
135 places of exhibition or entertainment, and other covered
136 establishments. Each of the following establishments which
137 serves the public is a place of public accommodation within the
138 meaning of this section:

139 (a) Any inn, hotel, motel, or other establishment that
140 ~~which~~ provides lodging to transient guests, other than an
141 establishment located within a building that ~~which~~ contains not
142 more than four rooms for rent or hire and that ~~which~~ is actually
143 occupied by the proprietor of such establishment as his or her
144 residence.

145 (b) Any restaurant, cafeteria, lunchroom, lunch counter,

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146 soda fountain, or other facility principally engaged in selling
147 food for consumption on the premises, including, but not limited
148 to, any such facility located on the premises of any retail
149 establishment, or any gasoline station.

150 (c) Any motion picture theater, theater, concert hall,
151 sports arena, stadium, or other place of exhibition or
152 entertainment.

153 (d) Any establishment that ~~which~~ is physically located
154 within the premises of any establishment otherwise covered by
155 this subsection, or within the premises of which is physically
156 located any such covered establishment, and that ~~which~~ holds
157 itself out as serving patrons of such covered establishment.

158 (13) "Sexual orientation" means an individual's
159 heterosexuality, homosexuality, or bisexuality.

160 Section 5. Section 760.05, Florida Statutes, is amended to
161 read:

162 760.05 Functions of the commission.—The commission shall
163 promote and encourage fair treatment and equal opportunity for
164 all persons regardless of race, color, religion, sex, pregnancy,
165 national origin, age, sexual orientation, gender identity,
166 handicap, or marital status and mutual understanding and respect
167 among all members of society. ~~The commission all-economic,~~
168 ~~social, racial, religious, and ethnic groups;~~ and shall endeavor
169 to eliminate discrimination against, and antagonism between,
170 persons on the basis of race, color, religion, sex, pregnancy,
171 national origin, age, sexual orientation, gender identity,
172 handicap, or marital status ~~religious, racial, and ethnic groups~~
173 ~~and their members.~~

174 Section 6. Section 760.07, Florida Statutes, is amended to

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175 read:

176 760.07 Remedies for unlawful discrimination.—Any violation
177 of any state law ~~Florida statute~~ making unlawful discrimination
178 because of race, color, religion, gender, pregnancy, national
179 origin, age, sexual orientation, gender identity, handicap, or
180 marital status in the areas of education, employment, housing,
181 or public accommodations gives rise to a cause of action for all
182 relief and damages described in s. 760.11(5), unless greater
183 damages are expressly provided for. If the statute prohibiting
184 unlawful discrimination provides an administrative remedy, the
185 action for equitable relief and damages provided for in this
186 section may be initiated only after the plaintiff has exhausted
187 his or her administrative remedy. The term “public
188 accommodations” does not include lodge halls or other similar
189 facilities of private organizations which are made available for
190 public use occasionally or periodically. The right to trial by
191 jury is preserved in any case in which the plaintiff is seeking
192 actual or punitive damages.

193 Section 7. Section 760.08, Florida Statutes, is amended to
194 read:

195 760.08 Discrimination in places of public accommodation.—
196 All persons are entitled to the full and equal enjoyment of the
197 goods, services, facilities, privileges, advantages, and
198 accommodations of any place of public accommodation without
199 discrimination or segregation on the ground of race, color,
200 national origin, sex, sexual orientation, gender identity,
201 pregnancy, handicap, familial status, or religion.

202 Section 8. Subsections (1) and (2), paragraphs (a) and (b)
203 of subsection (3), subsections (4), (5), and (6), paragraph (a)

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204 of subsection (8), and subsection (9) of section 760.10, Florida
205 Statutes, are amended, and subsection (10) of that section is
206 republished, to read:

207 760.10 Unlawful employment practices.—

208 (1) It is an unlawful employment practice for an employer:

209 (a) To discharge or to fail or refuse to hire any
210 individual, or otherwise to discriminate against any individual
211 with respect to compensation, terms, conditions, or privileges
212 of employment, because of such individual's race, color,
213 religion, sex, pregnancy, national origin, age, sexual
214 orientation, gender identity, handicap, or marital status.

215 (b) To limit, segregate, or classify employees or
216 applicants for employment in any way that ~~which~~ would deprive or
217 tend to deprive any individual of employment opportunities, or
218 adversely affect any individual's status as an employee, because
219 of such individual's race, color, religion, sex, pregnancy,
220 national origin, age, sexual orientation, gender identity,
221 handicap, or marital status.

222 (2) It is an unlawful employment practice for an employment
223 agency to fail or refuse to refer for employment, or otherwise
224 to discriminate against, any individual because of race, color,
225 religion, sex, pregnancy, national origin, age, sexual
226 orientation, gender identity, handicap, or marital status or to
227 classify or refer for employment any individual on the basis of
228 race, color, religion, sex, pregnancy, national origin, age,
229 sexual orientation, gender identity, handicap, or marital
230 status.

231 (3) It is an unlawful employment practice for a labor
232 organization:

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233 (a) To exclude or to expel from its membership, or
234 otherwise to discriminate against, any individual because of
235 race, color, religion, sex, pregnancy, national origin, age,
236 sexual orientation, gender identity, handicap, or marital
237 status.

238 (b) To limit, segregate, or classify its membership or
239 applicants for membership, or to classify or fail or refuse to
240 refer for employment any individual, in any way that would
241 deprive or tend to deprive any individual of employment
242 opportunities, or adversely affect any individual's status as an
243 employee or as an applicant for employment, because of such
244 individual's race, color, religion, sex, pregnancy, national
245 origin, age, sexual orientation, gender identity, handicap, or
246 marital status.

247 (4) It is an unlawful employment practice for any employer,
248 labor organization, or joint labor-management committee
249 controlling apprenticeship or other training or retraining,
250 including on-the-job training programs, to discriminate against
251 any individual because of race, color, religion, sex, pregnancy,
252 national origin, age, sexual orientation, gender identity,
253 handicap, or marital status in admission to, or employment in,
254 any program established to provide apprenticeship or other
255 training.

256 (5) Whenever, in order to engage in a profession,
257 occupation, or trade, it is required that a person receive a
258 license, certification, or other credential;; become a member or
259 an associate of any club, association, or other organization;;
260 or pass any examination, it is an unlawful employment practice
261 for any person to discriminate against any other person seeking

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262 such license, certification, or other credential;~~7~~ seeking to
263 become a member or associate of such club, association, or other
264 organization;~~7~~ or seeking to take or pass such examination,
265 because of such other person's race, color, religion, sex,
266 pregnancy, national origin, age, sexual orientation, gender
267 identity, handicap, or marital status.

268 (6) It is an unlawful employment practice for an employer,
269 a labor organization, an employment agency, or a joint labor-
270 management committee to print, or cause to be printed or
271 published, any notice or advertisement relating to employment,
272 membership, classification, referral for employment, or
273 apprenticeship or other training which indicates~~, indicating~~ any
274 preference, limitation, specification, or discrimination~~7~~ based
275 on race, color, religion, sex, pregnancy, national origin, age,
276 sexual orientation, gender identity, absence of handicap, or
277 marital status.

278 (8) Notwithstanding any other provision of this section, it
279 is not an unlawful employment practice under ss. 760.01-760.10
280 for an employer, employment agency, labor organization, or joint
281 labor-management committee to:

282 (a) Take or fail to take any action on the basis of
283 religion, sex, pregnancy, national origin, age, sexual
284 orientation, gender identity, handicap, or marital status in
285 those certain instances in which religion, sex, condition of
286 pregnancy, national origin, age, sexual orientation, gender
287 identity, absence of a particular handicap, or marital status is
288 a bona fide occupational qualification reasonably necessary for
289 the performance of the particular employment to which such
290 action or inaction is related.

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291 (9) (a) This section does ~~shall~~ not apply to any religious
 292 corporation, association, educational institution, or society
 293 that ~~which~~ conditions opportunities in the area of employment or
 294 public accommodation to members of that religious corporation,
 295 association, educational institution, or society or to persons
 296 who subscribe to its tenets or beliefs.

297 (b) This section does ~~shall~~ not prohibit a religious
 298 corporation, association, educational institution, or society
 299 from giving preference in employment to individuals of a
 300 particular religion to perform work connected with the carrying
 301 on by such corporations, associations, educational institutions,
 302 or societies of its various activities.

303 (c) This section and s. 760.08 do not limit the free
 304 exercise of religion guaranteed by the United States
 305 Constitution and the State Constitution.

306 (10) Each employer, employment agency, and labor
 307 organization shall post and keep posted in conspicuous places
 308 upon its premises a notice provided by the commission setting
 309 forth such information as the commission deems appropriate to
 310 effectuate the purposes of ss. 760.01-760.10.

311 Section 9. Section 760.22, Florida Statutes, is amended to
 312 read:

313 760.22 Definitions.—As used in ss. 760.20-760.37, the term:

314 (1) "Commission" means the Florida Commission on Human
 315 Relations.

316 (2) "Covered multifamily dwelling" means:

317 (a) A building that ~~which~~ consists of four or more units
 318 and has an elevator; or

319 (b) The ground floor units of a building that ~~which~~

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320 consists of four or more units and does not have an elevator.

321 (3) "Discriminatory housing practice" means an act that is
322 unlawful under the terms of ss. 760.20-760.37.

323 (4) "Dwelling" means any building or structure, or portion
324 thereof, which is occupied as, or designed or intended for
325 occupancy as, a residence by one or more families, and any
326 vacant land that ~~which~~ is offered for sale or lease for the
327 construction or location on the land of any such building or
328 structure, or portion thereof.

329 (5) "Familial status" is established when an individual who
330 has not attained the age of 18 years is domiciled with:

331 (a) A parent or other person having legal custody of such
332 individual; or

333 (b) A designee of a parent or other person having legal
334 custody, with the written permission of such parent or other
335 person.

336 (6) "Family" includes a single individual.

337 (7) "Gender identity" has the same meaning as provided in
338 s. 760.02.

339 (8)~~(7)~~ "Handicap" means:

340 (a) A ~~person has a~~ physical or mental impairment that ~~which~~
341 substantially limits one or more major life activities for a
342 person who has, ~~or he or she~~ has a record of having, or is
343 regarded as having that, ~~such~~ physical or mental impairment; or

344 (b) A ~~person has a~~ developmental disability as defined in
345 s. 393.063.

346 (9)~~(8)~~ "Person" includes one or more individuals,
347 corporations, partnerships, associations, labor organizations,
348 legal representatives, mutual companies, joint-stock companies,

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349 trusts, unincorporated organizations, trustees, trustees in
350 bankruptcy, receivers, and fiduciaries.

351 (10) "Sexual orientation" has the same meaning as provided
352 in s. 760.02.

353 (11)~~(9)~~ "Substantially equivalent" means an administrative
354 subdivision of the State of Florida meeting the requirements of
355 24 C.F.R. part 115, s. 115.6.

356 (12)~~(10)~~ "To rent" includes to lease, to sublease, to let,
357 and otherwise to grant for a consideration the right to occupy
358 premises not owned by the occupant.

359 Section 10. Subsections (1) through (5) of section 760.23,
360 Florida Statutes, are amended to read:

361 760.23 Discrimination in the sale or rental of housing and
362 other prohibited practices.—

363 (1) It is unlawful to refuse to sell or rent after the
364 making of a bona fide offer, to refuse to negotiate for the sale
365 or rental of, or otherwise to make unavailable or deny a
366 dwelling to any person because of race, color, national origin,
367 sex, sexual orientation, gender identity, handicap, familial
368 status, or religion.

369 (2) It is unlawful to discriminate against any person in
370 the terms, conditions, or privileges of sale or rental of a
371 dwelling, or in the provision of services or facilities in
372 connection therewith, because of race, color, national origin,
373 sex, sexual orientation, gender identity, handicap, familial
374 status, or religion.

375 (3) It is unlawful to make, print, or publish, or cause to
376 be made, printed, or published, any notice, statement, or
377 advertisement with respect to the sale or rental of a dwelling

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378 that indicates any preference, limitation, or discrimination
379 based on race, color, national origin, sex, sexual orientation,
380 gender identity, handicap, familial status, or religion or an
381 intention to make any such preference, limitation, or
382 discrimination.

383 (4) It is unlawful to represent to any person because of
384 race, color, national origin, sex, sexual orientation, gender
385 identity, handicap, familial status, or religion that any
386 dwelling is not available for inspection, sale, or rental when
387 such dwelling is in fact so available.

388 (5) It is unlawful, for profit, to induce or attempt to
389 induce any person to sell or rent any dwelling by a
390 representation regarding the entry or prospective entry into the
391 neighborhood of a person or persons of a particular race, color,
392 national origin, sex, sexual orientation, gender identity,
393 handicap, familial status, or religion.

394 Section 11. Section 760.24, Florida Statutes, is amended to
395 read:

396 760.24 Discrimination in the provision of brokerage
397 services.—It is unlawful to deny any person access to, or
398 membership or participation in, any multiple-listing service,
399 real estate brokers' organization, or other service,
400 organization, or facility relating to the business of selling or
401 renting dwellings, or to discriminate against him or her in the
402 terms or conditions of such access, membership, or
403 participation, because ~~on account~~ of race, color, national
404 origin, sex, sexual orientation, gender identity, handicap,
405 familial status, or religion.

406 Section 12. Subsection (1) and paragraph (a) of subsection

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407 (2) of section 760.25, Florida Statutes, are amended to read:

408 760.25 Discrimination in the financing of housing or in
409 residential real estate transactions.—

410 (1) It is unlawful for any bank, building and loan
411 association, insurance company, or other corporation,
412 association, firm, or enterprise the business of which consists
413 in whole or in part of the making of commercial real estate
414 loans to deny a loan or other financial assistance to a person
415 applying for the loan for the purpose of purchasing,
416 constructing, improving, repairing, or maintaining a dwelling,
417 or to discriminate against him or her in the fixing of the
418 amount, interest rate, duration, or other term or condition of
419 such loan or other financial assistance, because of the race,
420 color, national origin, sex, sexual orientation, gender
421 identity, handicap, familial status, or religion of such person
422 or of any person associated with him or her in connection with
423 such loan or other financial assistance or the purposes of such
424 loan or other financial assistance, or because of the race,
425 color, national origin, sex, sexual orientation, gender
426 identity, handicap, familial status, or religion of the present
427 or prospective owners, lessees, tenants, or occupants of the
428 dwelling or dwellings in relation to which such loan or other
429 financial assistance is to be made or given.

430 (2) (a) It is unlawful for any person or entity whose
431 business includes engaging in residential real estate
432 transactions to discriminate against any person in making
433 available such a transaction, or in the terms or conditions of
434 such a transaction, because of race, color, national origin,
435 sex, sexual orientation, gender identity, handicap, familial

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436 status, or religion.

437 Section 13. Section 760.26, Florida Statutes, is amended to
438 read:

439 760.26 Prohibited discrimination in land use decisions and
440 in permitting of development.—It is unlawful to discriminate in
441 land use decisions or in the permitting of development based on
442 race, color, national origin, sex, sexual orientation, gender
443 identity, disability, familial status, religion, or, except as
444 otherwise provided by law, the source of financing of a
445 development or proposed development.

446 Section 14. Paragraph (a) of subsection (5) of section
447 760.29, Florida Statutes, is amended to read:

448 760.29 Exemptions.—

449 (5) Nothing in ss. 760.20-760.37:

450 (a) Prohibits a person engaged in the business of
451 furnishing appraisals of real property from taking into
452 consideration factors other than race, color, national origin,
453 sex, sexual orientation, gender identity, handicap, familial
454 status, or religion.

455 Section 15. Subsection (1) of section 760.60, Florida
456 Statutes, is amended to read:

457 760.60 Discriminatory practices of certain clubs
458 prohibited; remedies.—

459 (1) It is unlawful for a person to discriminate against any
460 individual because of race, color, religion, gender, national
461 origin, handicap, age above the age of 21, sexual orientation,
462 gender identity, or marital status in evaluating an application
463 for membership in a club that has more than 400 members, that
464 provides regular meal service, and that regularly receives

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465 payment for dues, fees, use of space, facilities, services,
466 meals, or beverages directly or indirectly from nonmembers for
467 business purposes. It is unlawful for a person, on behalf of
468 such a club, to publish, circulate, issue, display, post, or
469 mail any advertisement, notice, or solicitation that contains a
470 statement to the effect that the accommodations, advantages,
471 facilities, membership, or privileges of the club are denied to
472 any individual because of race, color, religion, gender,
473 national origin, handicap, age above the age of 21, sexual
474 orientation, gender identity, or marital status. This subsection
475 does not apply to fraternal or benevolent organizations, ethnic
476 clubs, or religious organizations where business activity is not
477 prevalent.

478 Section 16. Paragraph (e) of subsection (1) of section
479 419.001, Florida Statutes, is amended to read:

480 419.001 Site selection of community residential homes.—

481 (1) For the purposes of this section, the term:

482 (e) "Resident" means any of the following: a frail elder as
483 defined in s. 429.65; a person who has a handicap as defined in
484 s. 760.22(8)(a) ~~s. 760.22(7)(a)~~; a person who has a
485 developmental disability as defined in s. 393.063; a
486 nondangerous person who has a mental illness as defined in s.
487 394.455; or a child who is found to be dependent as defined in
488 s. 39.01 or s. 984.03, or a child in need of services as defined
489 in s. 984.03 or s. 985.03.

490 Section 17. This act shall take effect July 1, 2018.