

By Senator Smith

14-1388-06

1 A bill to be entitled
2 An act relating to gender violence; creating s.
3 784.0485, F.S.; providing a definition;
4 authorizing a person who has been subjected to
5 gender-related violence to file a civil action;
6 defining the term "perpetrating"; providing
7 forms of relief, including attorney's fees and
8 costs; requiring certain causes of action for
9 gender-related violence to commence within a
10 specific timeframe; providing for
11 applicability; providing an effective date.

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13 WHEREAS, recent national studies demonstrate that
14 women in the United States continue to be greatly harmed by
15 gender-related violence, such as domestic violence, which is
16 disproportionately visited upon women by men, and sexual
17 abuse, which harms many women and children without being
18 reported or prosecuted, and

19 WHEREAS, it is documented that existing state and
20 federal laws have not provided adequate remedies to women
21 survivors of domestic violence and sexual abuse, and

22 WHEREAS, women survivors of domestic violence often
23 find laws against domestic violence used against them by their
24 batterers, and

25 WHEREAS, the United States Supreme Court has ruled that
26 the states alone have the authority to grant civil relief to
27 the survivors of such sexually discriminatory violence, and

28 WHEREAS, such acts of gender-related violence are a
29 form of gender discrimination, NOW, THEREFORE,

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

1 Section 1. Section 784.0485, Florida Statutes, is
2 created to read:

3 784.0485 Gender violence.--

4 (1) This section may be cited as the "Gender Violence
5 Act."

6 (2) As used in this section, the term "gender-related
7 violence," which is a form of gender discrimination, means:

8 (a) One or more acts of violence or physical
9 aggression which satisfy the elements of battery or felony
10 battery under this chapter or sexual battery under chapter 794
11 which are committed, at least in part, on the basis of a
12 person's gender, whether or not those acts have resulted in
13 criminal charges, prosecution, or conviction.

14 (b) A physical intrusion or physical invasion of a
15 sexual nature under coercive conditions which satisfies the
16 elements of battery or felony battery under this chapter or
17 sexual battery under chapter 794, whether or not the act or
18 acts resulted in criminal charges, prosecution, or conviction.

19 (c) A threat of an act described in paragraph (a) or
20 paragraph (b) which causes a reasonable expectation that the
21 originator of the threat will commit the act.

22 (3) Any person who is subjected to gender-related
23 violence as defined in subsection (2) may bring a civil action
24 for damages, injunctive relief, or other appropriate relief
25 against a person or persons perpetrating that gender-related
26 violence. As used in this section, the term "perpetrating"
27 means personally committing the gender-related violence or
28 personally encouraging or assisting the act or acts of
29 gender-related violence.

30 (4) In an action brought under this section, the court
31 may award damages, injunctive relief, or other appropriate

1 relief. The court may award actual damages, damages for
2 emotional distress, or punitive damages. A judgment may also
3 include attorney's fees and costs.

4 (5) An action based on gender-related violence as
5 defined in paragraph (2)(a) or paragraph (2)(b) must be
6 commenced within 7 years after the cause of action accrued,
7 except that if the person who is entitled to bring the action
8 was a minor at the time the cause of action accrued, the
9 action must be commenced within 7 years after the person
10 reaches the age of 18. An action based on gender-related
11 violence as defined in paragraph (2)(c) must be commenced
12 within 2 years after the cause of action accrued, except that
13 if the person who is entitled to bring the action was a minor
14 at the time the cause of action accrued, the action must be
15 commenced within 2 years after the person reaches the age of
16 18.

17 (6) This section applies to causes of action accruing
18 on or after October 1, 2006.

19 Section 2. This act shall take effect October 1, 2006.

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22 SENATE SUMMARY

23 Authorizes a person who has been subjected to
24 gender-related violence to file a civil action. Defines
25 the term "perpetrating." Provides forms of relief.
26 Requires certain causes of action for gender-related
27 violence to commence within a specific timeframe.
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