

By Senator Diaz

36-01401-22

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1                   A bill to be entitled  
2       An act relating to civil actions for deprivation of  
3       rights, privileges, or immunities; creating s. 760.52,  
4       F.S.; providing a cause of action for the deprivation  
5       of certain rights, privileges, or immunities under the  
6       State Constitution; prohibiting injunctive relief  
7       under certain circumstances; providing that the  
8       plaintiff is considered the prevailing party under  
9       certain circumstances; providing for damages and  
10      reasonable attorney fees and costs, including  
11      contingency fees and expert witness fees; providing  
12      that interest accrues on a judgement beginning on a  
13      certain date; providing a waiver of sovereign immunity  
14      under certain circumstances; providing an effective  
15      date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

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19       Section 1. Section 760.52, Florida Statutes, is created to  
20 read:

21       760.52 Civil action for deprivation of rights, privileges,  
22 or immunities.—

23       (1) It is unlawful for a person to, under color of law,  
24 including under any statute, ordinance, regulation, measure,  
25 directive, rule, enactment, order, or policy, whether written or  
26 unwritten:

27       (a) Promulgate or cause to be enforced any statute,  
28 ordinance, regulation, measure, directive, rule, enactment,  
29 order, or policy, whether written or unwritten, that deprives

36-01401-22

20221342\_\_

30 any resident of the state or other person within the  
31 jurisdiction thereof of any rights, privileges, or immunities  
32 secured by the State Constitution; or

33 (b) Otherwise cause any resident of the state or other  
34 person within the jurisdiction thereof to be subjected to the  
35 deprivation of any rights, privileges, or immunities secured by  
36 the State Constitution.

37  
38 A person who violates this subsection is liable to the injured  
39 party in an action at law, suit in equity, or other proper  
40 proceeding for redress. However, injunctive relief may not be  
41 granted in an action brought against a judicial officer for an  
42 act or omission taken in such officer's judicial capacity unless  
43 a declaratory decree is violated or declaratory relief is  
44 unavailable.

45 (2) If a defendant substantially modifies or repeals a  
46 statute, ordinance, regulation, measure, directive, rule,  
47 enactment, order, or policy, whether written or unwritten, with  
48 or without court action, after a complaint has been filed  
49 alleging a violation of this section based on such statute,  
50 ordinance, regulation, measure, directive, rule, enactment,  
51 order, or policy, the plaintiff is considered the prevailing  
52 party for purposes of this section.

53 (3) In an action or proceeding brought under this section:

54 (a) The court may award a prevailing plaintiff any or all  
55 of the following, as appropriate:

56 1. Compensatory damages.

57 2. Nominal damages.

58 3. Punitive damages.

36-01401-22

20221342\_\_

59       (b) The court shall award a prevailing plaintiff reasonable  
60 attorney fees and costs, which may include a contingency fee  
61 multiplier as authorized by law, and expert witness fees.

62       (4) Interest on the sums awarded by the court begins on the  
63 date the plaintiff filed the complaint with the clerk of court  
64 and accrues at the legal rate set forth in s. 55.03.

65       (5) In accordance with s. 13, Art. X of the State  
66 Constitution, the state, for itself and for its agencies or  
67 political subdivisions, waives sovereign immunity for causes of  
68 action brought under this section, but only to the extent  
69 specified herein.

70       Section 2. This act shall take effect July 1, 2022.