

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1225 Florida Commission on Human Relations

**SPONSOR(S):** Antone

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1296

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Constitutional Rights, Rule of Law & Government Operations Subcommittee	14 Y, 0 N	Poreda	Miller
2) Civil Justice Subcommittee	16 Y, 0 N	Yeager	Jones
3) State Affairs Committee	20 Y, 0 N	Poreda	Williamson

### SUMMARY ANALYSIS

The Florida Civil Rights Act of 1992 (FCRA) was enacted to “secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status...” in employment and public accommodations. The FCRA also created the Florida Commission on Human Relations (Commission) to promote and encourage the purposes of the FCRA.

The Commission is empowered to receive, initiate, investigate, conciliate, hold hearings on, and act upon complaints alleging any discriminatory practice. Any person may file with the Commission a complaint of an alleged violation. The Commission must send a copy of the complaint to the person who allegedly committed the violation by registered mail within five days. The Commission must investigate the allegations in a complaint and determine if there is reasonable cause to believe that a discriminatory practice has occurred in violation of the FCRA. After a determination is made, the Commission must notify, by registered mail, both the complainant and the respondent of the decision.

The bill maintains the notification requirement for complaints being filed with the Commission and reasonable cause determinations made by the Commission, but removes the requirement that the notifications be sent by registered mail.

The bill may have an indeterminate positive fiscal impact on state government, but does not appear to have a fiscal impact on local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### The Civil Rights Act of 1964<sup>1</sup>

Title II of the Civil Rights Act of 1964 (Title II) prohibits discrimination on the basis of race, color, religion, or national origin in certain places of public accommodation, such as hotels, restaurants, and places of entertainment. Title VII of the Civil Rights Act of 1964 (Title VII) prohibits discrimination in employment on the basis of race, color, religion, national origin, or sex. Title VII applies to employers with 15 or more employees<sup>2</sup> and outlines a number of unlawful employment practices.

##### Florida Civil Rights Act of 1992<sup>3</sup>

Patterned after Title II and Title VII, the Florida Civil Rights Act of 1992 (FCRA) was enacted to “secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status...”<sup>4</sup> in employment and public accommodations.<sup>5</sup> Similar to Title VII, the FCRA provides a number of actions that, if undertaken because of or on the basis of an individual's race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status, are considered unlawful employment practices.<sup>6</sup>

##### Florida Commission on Human Relations

FCRA also created the Florida Commission on Human Relations (Commission) to promote and encourage the purposes of the act.<sup>7</sup> The Commission is housed in the Department of Management Services (DMS); however, DMS does not exercise any control, supervision, or direction over the Commission.

The Commission is comprised of 12 commissioners appointed by the Governor and confirmed by the Senate.<sup>8</sup> The commissioners are appointed to four-year terms.<sup>9</sup> The commissioners select a member to

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<sup>1</sup> 42 U.S.C. §2000a *et seq.*; 42 U.S.C. §2000e *et seq.*

<sup>2</sup> 42 U.S.C. §2000e(b).

<sup>3</sup> S. 760.01(1), F.S.

<sup>4</sup> S. 760.01(2), F.S.

<sup>5</sup> “Public accommodations” means places of public accommodation, lodgings, facilities principally engaged in selling food for consumption on the premises, gasoline stations, places of exhibition or entertainment, and other covered establishments. S. 760.02(11), F.S.

<sup>6</sup> Actions considered unlawful employment practices include, but are not limited to, failing to hire an individual, or otherwise discriminating against an individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status; limiting, segregating, or classifying employees or applicants for employment in ways that would deprive such individuals of employment opportunities or adversely affect an individual's status as an employee; failing or refusing to refer an individual for employment because of such individual's race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status; excluding or expelling an individual from membership in a labor organization or limiting, segregating, or classifying the membership of a labor organization because of such individual's race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status; discriminating in admission to, or employment in, any program established to provide apprenticeship or other training for a profession, occupation, or trade because of an individual's race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status; discriminating in licensing, certification, credentials, examinations, or an organizational membership required to engage in a profession, occupation, or trade because of such individual's race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status; and printing or publishing ads related to membership in certain labor organizations or employment that indicate a preference, limitation, specification, or discrimination. S. 760.10, F.S.

<sup>7</sup> S. 760.05, F.S.; s. 760.03, F.S.

<sup>8</sup> S. 760.03(1), F.S.

<sup>9</sup> S. 760.03(3), F.S.

serve as chairperson for a term of two years.<sup>10</sup> The membership of the Commission must be broadly representative of various racial, religious, ethnic, social, economic, political, and professional groups in Florida and at least one member of the Commission must be 60 years of age or older.<sup>11</sup>

The Commission is empowered to receive, initiate, investigate, seek to conciliate, hold hearings on, and act upon complaints alleging any discriminatory practice, as defined by the FCRA.<sup>12</sup> In order to conduct investigations and hearings regarding complaints brought under the FCRA, the Commission may issue subpoenas and administer oaths or affirmations to compel testimony of witnesses or the production of relevant information.<sup>13</sup>

Any person may file a complaint with the Commission within 365 days of an alleged violation of the FCRA containing a short and plain statement of the facts describing the violation, relief sought, and name of the employer, agency, organization, or person who allegedly committed the violation.<sup>14</sup> Within five days of the complaint being filed, the Commission must send a copy of the complaint to the person who allegedly committed the violation by registered mail.<sup>15</sup> That person then, in turn, may file an answer to the complaint within 25 days of the date the complaint was filed with the Commission.<sup>16</sup>

The Commission must investigate<sup>17</sup> the allegations in a complaint and within 180 days determine if there is reasonable cause to believe that discriminatory practice had occurred in violation of the FCRA.<sup>18</sup> After a determination is made<sup>19</sup> on whether or not there is reasonable cause for a violation of the FCRA, the Commission must notify, by registered mail, both the aggrieved person and the respondent of the reasonable cause determination, the date of such determination, and the options available to either party.<sup>20</sup>

If the Commission finds reasonable cause that a violation of the FCRA has occurred, the aggrieved person may either bring a civil action against the person named in the complaint in any court of competent jurisdiction<sup>21</sup> or request an administrative hearing under ch. 120, F.S.<sup>22</sup> If the Commission determines that there is not reasonable cause that a violation of the FCRA has occurred, the Commission must dismiss the complaint.<sup>23</sup> The aggrieved person may request an administrative hearing but such request must be made within 35 days of the date of determination of reasonable cause and any such hearing must be heard by an administrative law judge and not by the Commission.<sup>24</sup>

### Registered Mail

Registered mail is the most secure mail service offered by the United States Postal Service (USPS). It is protected by safes, cages, sealed containers, locks, and keys while in the custody of the USPS. A

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<sup>10</sup> S. 760.03(1), F.S.

<sup>11</sup> S. 760.03(2), F.S.

<sup>12</sup> S. 760.06(5), F.S.

<sup>13</sup> S. 760.06(6), F.S.

<sup>14</sup> S. 760.11(1), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> If any other agency of the state or other unit of government of the state has jurisdiction of the subject matter of any complaint filed with the Commission and has legal authority to investigate the complaint, the Commission may refer such complaint to such agency for an investigation. S. 760.11(2), F.S.

<sup>18</sup> S. 760.11(3), F.S.

<sup>19</sup> If the Commission fails to determine whether there is reasonable cause on any complaint within 180 days after the filing of the complaint, the aggrieved person may proceed as if the Commission determined there was reasonable cause for the complaint. The Commission must notify the aggrieved person of the failure to determine whether there is reasonable cause and provide the options available to the aggrieved person. The aggrieved person must file a civil action within one year after the date the Commission certifies the notice was mailed. S. 760.11(8), F.S.

<sup>20</sup> S. 760.11(3), F.S.

<sup>21</sup> S. 760.11(4)(a), F.S.

<sup>22</sup> S. 760.11(4)(b), F.S.

<sup>23</sup> S. 760.11(7), F.S.

<sup>24</sup> *Id.*

system of receipts is provided to monitor movement of registered mail from the point of acceptance to delivery, but tracking services while the mail is en route to the destination is not provided. Mailers using registered mail can direct delivery only to the addressee or addressee's authorized agent and requires a signature upon delivery. USPS employees are not permitted to help customers prepare or seal registered mail. Any envelope or package that appears to have been opened and resealed, or otherwise improperly prepared, may not be sent via registered mail.<sup>25</sup>

### **Effect of the Bill**

The bill maintains the notification requirement for complaints being filed with the Commission and reasonable cause determinations by the Commission, but removes the requirement that those notifications be sent via registered mail.

The bill also makes clarifying changes.

#### **B. SECTION DIRECTORY:**

Section 1. Amends s. 760.11, F.S., relating to administrative and civil remedies; construction.

Section 2. Provides an effective date of July 1, 2024.

### **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate positive fiscal impact on the Commission by removing the requirement that the Commission send information by registered mail.<sup>26</sup>

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

#### **D. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

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<sup>25</sup> USPS, *Registered Mail - The Basics*, <https://faq.usps.com/s/article/Registered-Mail-The-Basics> (last visited Jan. 19, 2024)

<sup>26</sup> Florida Commission on Human Relations, HB 1225 (2024) Staff Analysis (on file with the State Affairs Committee).

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.