

Florida State and Local Remedies for Civil Rights Violations in Public Accommodations

No State shall ... deny to any person within its jurisdiction the equal protection of the laws.

Equal protection is a right that is enshrined in both the Florida and the United States Constitutions. However, what most advocates and lawyers do not realize is that there are many local and state statutes that provide damages and other remedies for civil rights violations. As a lawyer or an advocate who is not a lawyer, it is important to know of these laws or ordinances and know how to use them.

This article focuses only on public accommodations, and not housing or employment; however, housing and employment discrimination similarly have state and local protections. In addition, this article does not cover criminal penalties for violating protected rights.

Florida State Law – Florida Civil Rights Act:

The main section relating to civil rights in Florida Statutes is Chapter 760. Chapter 760 contains the Florida Civil Rights Act (FCRA) which provides protection from discrimination in certain public accommodations, and is interpreted identically to federal anti-discrimination law. The important factors are as follows:

Protected classes: Race, color, national origin, sex, pregnancy, handicap, familial status, or religion. Familial status means having a child under 18 years of age.

Areas in which discrimination is prohibited: Public Accommodation is defined as (1) a place of lodging; (2) a place of entertainment; (3) a food service establishment; (4) a place that is within one through three above or contains one of the three above. For example, it does not include a store, library, or gas station. The FCRA also excludes private clubs or religious institutions.

Exhaustion of Administrative Remedies: It is required to file an administrative complaint with the [Florida Commission of Human Relations](#) to undergo an investigation and attempts to conciliate.

Deadline to bring a claim: 365 days to file a claim with the [Commission](#) from the discriminatory event.

Damages Recoverable: Under the FCRA, a court or the commission can award affirmative relief from the effects of the practice, such as actual damages and ceasing the offending practice. If the victim chooses to file a claim in a civil action, a court and a jury may also award compensatory damages, including, but not limited to, damages for mental anguish, loss of dignity, and any other intangible injuries, and punitive damages.

Florida Law - Florida Omnibus AIDS Act

Florida Statutes Section 760.50 protects those who have or are perceived to be HIV positive or have AIDS and is interpreted similarly to the Americans with Disabilities Act. The important factors are as follows:

Protected classes: Any person with or perceived as having acquired immune deficiency syndrome, acquired immune deficiency syndrome related complex.

Areas in which discrimination is prohibited: housing, public accommodations, or governmental services.

Exhaustion of Administrative Remedies: None.

Deadline to bring a claim: no deadline in statute, as such, presumably four years.

Damages Recoverable: A victim can bring a claim in state circuit court. For an unintentional violation, the victim may receive liquidated damages of \$1,000 or actual damages, whichever is greater. For an intentional or reckless violation of the law, liquidated damages of \$5,000 or actual damages, whichever is greater. A victim may also receive reasonable attorney's fees, and such other relief, including an injunction, as the court may deem appropriate.

Local Ordinances

Over fifty counties, and local municipalities in the State of Florida have human rights ordinances that protect many different classifications, and some provide administrative procedures, and provide an ability to file a claim directly in state court.

How do I find my local ordinances: The best way to find your local ordinance is to (1) go to municode.com, (2) go to your municipality **and** county, and (3) look for "human rights" or type "discrimination" into the search bar. If both a municipality and county have a human rights ordinance, you can file a complaint in either, or both, depending on the scope of the remedies. Examples of Civil Rights Ordinances are [Chapter 11A of the Miami Dade County Code](#); [Chapter 16 ½ of the Broward County Code](#); [Chapter 15 of the Palm Beach County Code](#); or [Chapter 22 of the Orange County Code](#).

Protected classes: Usually local ordinances have many more options than state or federal courts. For example, the Miami-Dade County Code includes the following classes: because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, gender identity, gender expression, source of income, sexual orientation, or actual or perceived status as a victim of domestic violence, dating violence or stalking. An ordinance will define all of the protected classes covered in the ordinance.

Areas in which discrimination is prohibited: Public Accommodation is defined in the ordinance. Most ordinances usually include all facilities in which the general public is invited.

Exhaustion of Administrative Remedies: It depends. The ordinances usually fit in one of the three possibilities. Some of the ordinances require an administrative agency to investigate the violation and make a finding of discrimination prior to the ability to bring suit; others provide an option between the administrative action and a civil action. Lastly, some provide no administrative remedy at all, and provide a private cause of action in Court. Again, you must read the ordinance to understand and review the appropriate procedure.

Deadline to bring a claim: Understanding the deadline to file a claim in court is one of the most essential issues when reviewing any discrimination claim. Usually these ordinances require all claims to be filed in court within one year. However, it is also important to remember that the investigation of the administrative claims (in most cases) does not extend the time to file your claim in court. So, if an investigation is pending, and it is running up to the deadline to file a claim, you will need to file a claim notwithstanding the process of the investigation. If you choose not to file a claim in court, your damages would be limited to what you would get through an administrative proceeding.

Damages Recoverable: A court or an administrative panel can award affirmative relief from the effects of the practice, such as actual damages and ceasing the offending practice. If the victim chooses to file a claim in a civil action, a court and a jury may also award compensatory damages, including, but not limited to, damages for mental anguish, loss of dignity, and any other intangible injuries, and punitive damages.

Importance of hiring an attorney:

Becoming an effective self-advocate is not rocket science, but its definitely not easy. If you are interested in learning more of the process of how these state statutes work or how these local ordinances work, call up the FCHR or the local human rights director and ask additional questions. Call up an attorney and see how these statutes can be used. This article is meant as a guideline to introduce the reader to the existence of these remedies, and not a comprehensive solution on any individual's case. So, if you have a question on how a local

ordinance works, print out the ordinance and ask an attorney to give you instructions on what the terms mean, and to provide you a general outline of the procedures under the law.

There are very few attorneys that handle these cases throughout the State of Florida.