

Florida Legislature Amends Florida Civil Rights Act to Restrict Topics Employer Can Discuss in Training

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The Florida legislature has passed a measure with the stated purpose of protecting individual freedoms and preventing discrimination in the workplace and in public schools. The measure, however, will likely expand an employer's civil liability exposure for discriminatory employment practices under the Florida Civil Rights Act if the employer discusses certain prohibited topics in its diversity or unconscious bias training.

Florida House Bill 7/Senate Bill 148 (HB 7), nicknamed the "Stop Woke Act," states that subjecting an employee to workplace training that espouses or compels the employee to believe certain concepts or makes people "feel" a certain way constitutes unlawful discrimination.

HB 7 closely mirrors [President Donald Trump's 2020 Executive Order](#) prohibiting divisive concepts in diversity training in the Executive Branch. The order was the subject of multiple First Amendment lawsuits, was [enjoined nationwide by a federal court](#), and, ultimately, was [revoked by President Joe Biden](#).

HB 7 expands Florida Statute Section 760.10, of the Florida Civil Rights Act, to provide that subjecting a person, as a condition of employment, membership, certification, licensing, credentialing, or passing an examination, to training, instruction, or any other required activity that espouses, promotes, advances, inculcates, or compels such individual to believe any of the following concepts constitutes discrimination based on race, color, sex, or national origin under the Florida Civil Rights Act:

1. Members of one race, color, sex, or national origin are morally superior to members of another race, color, sex, or national origin.
2. An individual, by virtue of his or her race, color, sex, or national origin, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.
3. An individual's moral character or status as either privileged or oppressed is necessarily determined by his or her race, color, sex, or national origin.
4. Members of one race, color, sex, or national origin cannot and should not attempt to treat others without respect to race, color, sex, or national origin.
5. An individual, by virtue of his or her race, color, sex, or national origin, bears responsibility for, or should be discriminated against or receive adverse treatment because of, actions committed in the past by other members of the same race, color, sex, or national origin.
6. An individual, by virtue of his or her race, color, sex, or national origin, should be discriminated against or receive adverse treatment to achieve diversity, equity, or inclusion.
7. An individual, by virtue of his or her race, color, sex, or national origin, bears personal responsibility for and must feel guilt, anguish, or other forms of psychological distress because of actions, in which the individual played no part,

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committed in the past by other members of the same race, color, sex, or national origin.

8. Such virtues as merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness are racist or sexist, or were created by members of a particular race, color, sex, or national origin to oppress members of another race, color, sex, or national origin.

HB 7 also states that it does not prohibit discussion of the concepts as part of a course of training or instruction, provided such training or instruction is given in an “objective manner without endorsement of such concepts.” The bill applies to both public and private employers with at least 15 employees. In addition to the workplace, the bill prohibits instruction in public schools of similar concepts.

In anticipation of legal challenges, HB 7 provides that if any provision of the bill that relates to unlawful employment practices is held invalid, the invalidity does not affect other provisions or applications of the bill that can be given effect without the invalid provision and, to this end, the provisions are severable.

The governor is expected to sign the bill into law. Legal challenges also are expected. Employers should keep a close eye on the status of the law and carefully review their equal employment opportunity instruction, new hire and current employee training, and diversity, equity, and inclusion initiatives for compliance.

Jackson Lewis attorneys will follow developments on the law and are available for questions.

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