

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1287 Reproductive Medicine

**SPONSOR(S):** Health Quality Subcommittee, Jenne

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 698

| REFERENCE                            | ACTION           | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|--------------------------------------|------------------|---------|--|
| 1) Health Quality Subcommittee       | 12 Y, 0 N, As CS | Siples  | McElroy                                  |
| 2) Health & Human Services Committee | 15 Y, 0 N        | Siples  | Calamas                                  |

### SUMMARY ANALYSIS

Infertility is the inability to conceive a child, and generally, a person is considered to be infertile after one year of unsuccessful conception. A physician may treat infertility by using intrauterine insemination or assistive reproductive technology. In intrauterine insemination, the physician uses reproductive material from the woman's partner or a donor. In assistive reproductive technology, an egg is fertilized in a laboratory using reproductive material from the woman's partner or a donor.

With the rising popularity of at-home genetic testing, former patients and adult children are learning that fertility doctors used their own reproductive material without the consent of their former patients. This practice is now known as fraudulent insemination or fertility fraud. Currently, Florida law does not specifically prohibit this practice.

CS/HB 1287 bans a physician from inseminating or implanting a patient or causing a patient to be inseminated or implanted with his or her own reproductive material. The bill establishes such action as a ground for disciplinary action against the physician's license. The bill also prohibits any health care practitioner from intentionally implanting, inseminating, or causing to be implanted or inseminated reproductive material into a patient from a donor unless the patient has consented to the use of that donor's reproductive material.

Effective October 1, 2020, the bill creates the crime of reproductive battery, which prohibits a healthcare practitioner from intentionally penetrating the vagina of a patient with the reproductive material of a donor or any object containing the reproductive material of a donor knowing the patient has not consented to the use of reproductive material from that donor. The bill tolls the statute of limitations for criminal prosecution of a reproductive battery until the date a violation is discovered and reported to law enforcement or another governmental agency.

The Criminal Justice Impact Conference considered the bill on February 10, 2020, and determined that it will likely have a positive insignificant impact, meaning it will result in an increase of 10 or fewer beds. The bill has an insignificant, negative fiscal impact on the Department of Health, which current resources are adequate to absorb. The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2020.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

Florida licenses two types of physicians: allopathic and osteopathic. Allopathic physicians diagnose, treat, operate, or prescribe for any human disease, pain, injury, deformity, or other physical or mental condition.<sup>1</sup> The scope of practice for osteopathic physicians is the same as that of allopathic physicians; however, osteopathic medicine emphasizes the importance of the musculoskeletal structure and manipulative therapy in the maintenance and restoration of health.<sup>2</sup>

#### Physician Licensure in Florida

##### *Allopathic Physicians*

Chapter 458, F.S., governs licensure and regulation of the practice of medicine by the Florida Board of Medicine (allopathic board) in conjunction the Department of Health (DOH). The chapter provides, among other things, licensure requirements by examination for medical school graduates and licensure by endorsement requirements.

##### *Allopathic Licensure by Examination*

An individual seeking to be licensed by examination as an allopathic physician, must meet the following requirements:<sup>3</sup>

- Be at least 21 years of age;
- Be of good moral character;
- Has not committed an act or offense that would constitute the basis for disciplining a physician, pursuant to s. 458.331, F.S.;
- Complete 2 years of post-secondary education which includes, at a minimum, courses in fields such as anatomy, biology, and chemistry prior to entering medical school;
- Meets one of the following medical education and postgraduate training requirements:
  - Is a graduate of an allopathic medical school recognized and approved by an accrediting agency recognized by the U.S. Office of Education or recognized by an appropriate governmental body of a U.S. territorial jurisdiction, and has completed at least one year of approved residency training;
  - Is a graduate of an allopathic foreign medical school registered with the World Health Organization and certified pursuant to statute as meeting the standards required to accredit U.S. medical schools, and has completed at least one year of approved residency training; or
  - Is a graduate of an allopathic foreign medical school that has not been certified pursuant to statute; has an active, valid certificate issued by the Educational Commission for Foreign Medical Graduates (ECFMG),<sup>4</sup> has passed that commission's examination; and has completed an approved residency or fellowship of at least 2 years in one specialty area;
- Has submitted to a background screening by the DOH; and
- Has obtained a passing score on:

---

<sup>1</sup> Section 458.305, F.S.

<sup>2</sup> Section 459.003, F.S.

<sup>3</sup> Section 458.311(1), F.S.; s. 458.313, F.S. offers a path to licensure by endorsement for physicians who hold an active license to practice medicine in another jurisdiction.

<sup>4</sup> A graduate of a foreign medical school does not need to present an ECFMG certification or pass its exam if the graduate received his or bachelor's degree from an accredited U.S. college or university, studied at a medical school recognized by the World Health Organization, and has completed all but the internship or social service requirements, has passed parts I and II of the National Board Medical Examiners licensing examination or the ECFMG equivalent examination. (Section 458.311, F.S.)

- The United States Medical Licensing Examination (USMLE);
- A combination of the USMLE, the examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), or the examination of the National Board of Medical Examiners up to the year 2000; or
- The Special Purpose Examination of the Federation of State Medical Boards of the United States (SPEX), if the applicant was licensed on the basis of a state board examination, is currently licensed in at least one other jurisdiction of the United States or Canada, and has practiced for a period of at least 10 years.

### *Osteopathic Physicians*

Chapter 459, F.S., governs licensure and regulation of the practice of medicine by the Florida Board of Osteopathic Medicine (osteopathic board), in conjunction the DOH. The chapter provides, among other things, general licensure requirements, including by examination for medical school graduates and licensure by endorsement requirements.

### *Osteopathic General Licensure*

An individual seeking to be licensed as an osteopathic physician must meet the following requirements:<sup>5</sup>

- Complete at least three years of pre-professional post-secondary education;
- Has not committed, or be under investigation in any jurisdiction for, an act or offense that would constitute the basis for disciplining an osteopathic physician, unless the osteopathic board determines such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine;
- Has not had an application for a license to practice osteopathic medicine denied or a license to practice osteopathic medicine revoked, suspended, or otherwise acted against by the licensing authority in any jurisdiction;
- Has not received less than a satisfactory evaluation from an internship, residency, or fellowship training program;
- Has submitted to a background screening by the DOH;
- Has graduated from a medical college recognized and approved by the American Osteopathic Association;
- Successfully completes a resident internship of at least 12 months in a hospital approved by the Board of Trustees of the American Osteopathic Association or any other internship approved by the osteopathic board; and
- Obtains a passing score, as established by rule of the osteopathic board, on the examination conducted by the National Board of Osteopathic Medical Examiners or other examination approved by the osteopathic board, no more than five years prior to applying for licensure.<sup>6</sup>

### Infertility

Infertility is the inability to conceive a child, and generally, a person is considered to be infertile after one year of unsuccessful conception.<sup>7</sup> The Centers for Disease Control (CDC) estimates about 12 percent of women aged 15 to 44 years in the United States have difficulty getting pregnant or carry a pregnancy to term.<sup>8</sup> Infertility affects both men and women equally. In approximately forty percent of infertile couples, the male partner is either the sole cause or a contributing cause of infertility.<sup>9</sup>

<sup>5</sup> Section 459.0055(1), F.S.

<sup>6</sup> However, if an applicant has been actively licensed in another state, the initial licensure in the other state must have occurred no more than five years after the applicant obtained the passing score on the licensure examination.

<sup>7</sup> Centers for Disease Control and Prevention, *Infertility FAQs*, available at <https://www.cdc.gov/reproductivehealth/infertility/index.htm> (last visited January 25, 2020).

<sup>8</sup> Id.

<sup>9</sup> American Society for Reproductive Medicine, *Quick Facts about Infertility*, available at <https://www.reproductivefacts.org/faqs/quick-facts-about-infertility/> (last visited February 1, 2020).

## Treatment of Infertility

Health care practitioners may treat infertility using a number of methods: medicine, surgery, intrauterine insemination, or assisted reproductive technology.<sup>10</sup> Health care practitioners often use more than one of these methods concurrently. The treatment used by the health care practitioner depends on the:<sup>11</sup>

- Factors contributing to the infertility.
- Duration of the infertility.
- Age of the female.
- Couple's treatment preference after counseling about success rates, risks, and benefits of each treatment option.

Eighty-five to ninety percent of infertility cases are treated with medication or surgery.<sup>12</sup> A health care practitioner may use intrauterine insemination (IUI), also known as artificial insemination, if medication or surgery is not indicated or is unsuccessful in resolving the infertility. With IUI, specially prepared sperm are inserted into a woman's uterus.<sup>13</sup> The sperm may be the sperm of her partner or from a donor.

Assistive reproductive technology (ART) includes all fertility treatments in which both the eggs and the embryos are handled outside of the body. Examples of ART includes in vitro fertilization (IVF), gamete intrafallopian transfer, pronuclear stage tubal transfer, tubal embryo transfer, and zygote intrafallopian transfer.<sup>14</sup>

IVF involves surgically removing eggs from a woman's ovaries and combining them with her partner's sperm or donor sperm in a laboratory.<sup>15</sup> After 40 hours the eggs are examined to see if they have become fertilized by sperm and are dividing into cells. The fertilized eggs or embryos are then placed in the woman's uterus.<sup>16</sup> The transfer may occur at the time they are fertilized or the embryos may be cryopreserved for future use.

### Fraudulent Insemination

With the rising popularity of at-home genetic testing, adult children are learning that they are not biologically related to their fathers and that they may have multiple half-siblings. Beginning in 2016, cases began to emerge where male physicians had used their own sperm in the 1970s through 1990s to inseminate patients without their knowledge.<sup>17</sup>

When infertility treatment was relatively new, physicians would mix a spouse's sample with that of a donor, and physicians typically provided little information about the donor to the patient.<sup>18</sup> A survey conducted by the federal Office of Technology Assessment in 1987, revealed that approximately two percent of fertility doctors who responded had use their own sperm to inseminate patients.<sup>19</sup> Physicians have justified this practice by indicating that the donors were advised that the sperm donors were

---

<sup>10</sup> *Supra* note 7.

<sup>11</sup> *Id.*

<sup>12</sup> *Supra* note 9.

<sup>13</sup> *Supra* note 7.

<sup>14</sup> American Society for Reproductive Medicine, *Assisted Reproductive Technologies*, available at <https://www.reproductivefacts.org/topics/topics-index/assisted-reproductive-technologies/> (last visited February 1, 2020).

<sup>15</sup> American Society for Reproductive Medicine, *What is In Vitro Fertilization?*, available at <https://www.reproductivefacts.org/faqs/frequently-asked-questions-about-infertility/q05-what-is-in-vitro-fertilization/> (last visited February 1, 2020).

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

<sup>17</sup> Dr. Jody Lynee Madeira, *Uncommon Misconceptions: Holding Physicians Accountable for Fertility Fraud*, 37 *LAW & INEQUALITY* 45 (Winter 2019), available at <https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1605&context=lawineq> (last visited February 1, 2020).

<sup>18</sup> Dov Fox, JD, DPhil, I. Glenn Cohen, JD, and Eli Y. Adashi, MD, MS, *Fertility Fraud, Legal Firsts, and Medical Ethics (Abstract)*, 134 *Obstetrics & Gynecology* 918 (Nov. 2019), available at [https://journals.lww.com/greenjournal/Citation/2019/11000/Fertility\\_Fraud,\\_Legal\\_Firsts,\\_and\\_Medical\\_Ethics.4.aspx](https://journals.lww.com/greenjournal/Citation/2019/11000/Fertility_Fraud,_Legal_Firsts,_and_Medical_Ethics.4.aspx) (last visited February 1, 2020).

<sup>19</sup> *Supra* note 17.

anonymous and would not provide any other information to protect that anonymity.<sup>20</sup> Unlike the practice in 1970s and 1980s, many donations today are provided to sperm banks, rather than directly to practitioners, that typically catalog donations, along with profiles of the donors.<sup>21</sup>

Former patients impacted by fraudulent insemination feel physically violated and assaulted, and may feel guilty or remorseful for seeking accountability due to their affection for their children.<sup>22</sup> Children who resulted from fraudulent insemination may experience disruption in personal identity and may become estranged from their families if they pursue relationships with their newly found half-siblings.<sup>23</sup>

### Criminal Liability

Current law presents several obstacles to imposing criminal sanctions for fraudulent insemination. As of 2019, no health care practitioner has been held criminally liable for conduct relating to the unauthorized use of human reproductive material.<sup>24</sup> Prosecuting authorities have charged health care practitioners with mail fraud, wire fraud, perjury, and obstruction of justice when state laws have failed to specifically provide criminal penalties for such conduct.<sup>25</sup>

#### *Florida*

Florida law does not specifically prohibit a health care practitioner from implanting or inseminating a patient with human reproductive material from an unspecified donor without the patient's consent. The elements of some existing crimes come close to capturing the conduct, but present challenges when applied in a health care setting. For example, it is unlikely that the crime of battery<sup>26</sup> captures fraudulent insemination. A person commits battery when he or she:<sup>27</sup>

- Actually and intentionally touches or strikes another person against the will of the other; or
- Intentionally causes another person bodily harm.

A fertility patient consents to an insemination procedure prior to sperm being injected. Even if a fertility patient would not have consented to the sperm's source, because she consents to the actual "touching" required for a battery, it may be difficult to prove a violation. Moreover, other states have resisted applying battery statutes to fraudulent insemination out of concern that a jury may determine that a patient consented to conduct in cases where anonymous donor sperm is used for insemination.<sup>28</sup>

Similarly, the elements of fraudulent insemination are likely not captured by the existing crime of sexual battery. Sexual battery is the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object.<sup>29</sup> Sexual battery does not include an act done for a bona fide medical purpose.<sup>30</sup> Although sexual battery does not require proof that the act was performed for the purpose of sexual gratification, the fact that the act is performed in a clinical setting in which the patient has consented to the procedure may present obstacles to proving a violation.<sup>31</sup>

---

<sup>20</sup> Michael Cook, *Another Case of Fertility Fraud, This Time in Colorado*, BioEDGE, (Feb. 1, 2020), available at <https://www.bioedge.org/bioethics/another-case-of-fertility-fraud-this-time-in-colorado/13311> (last visited February 1, 2020).

<sup>21</sup> *Supra* note 18.

<sup>22</sup> *Supra* note 17.

<sup>23</sup> *Id.*

<sup>24</sup> *Supra* note 17.

<sup>25</sup> Jody Lynee Madeira, *Understanding Illicit Insemination and Fertility Fraud, From Patient Experience to Legal Reform*, (Jan. 29, 2020) <https://journals.library.columbia.edu/index.php/cjgl/article/view/4559> (last visited Feb. 1, 2020).

<sup>26</sup> Section 784.03, F.S.

<sup>27</sup> Battery is a first degree misdemeanor, punishable by up to one year in county jail and a fine up to \$1,000. Sections 775.082 and 775.083, F.S.

<sup>28</sup> *Supra* note 17.

<sup>29</sup> The act must be committed without the victim's consent. S. 794.011(1)(h), F.S.

<sup>30</sup> A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older, without that person's consent, and in the process does not use physical force or violence likely to cause serious personal injury commits a second degree felony, punishable by 15 years imprisonment and a \$10,000 fine. Ss. 775.082 and 775.083, F.S.

<sup>31</sup> Jody Lynee Madeira, *Understanding Illicit Insemination*, *supra* note 2.

## Other States

Texas prohibits a person from using genetic material without disclosing the source of such material as a form of sexual assault. Under the law, it is a felony to implant human reproductive material without a patient's consent, and a violation is punishable by six months to two years imprisonment and a fine up to \$10,000.<sup>32</sup> Indiana prohibits making a misrepresentation involving human reproductive material or a medical procedure, device, or drug. A violation of the prohibition is punishable by one to six years imprisonment and a fine up to \$10,000.<sup>33</sup> Currently, Texas and Indiana are the only states that have criminalized conduct related to fraudulent insemination.<sup>34</sup>

California law makes it a crime for a person to knowingly use reproductive material in ART, for any purpose other than that authorized by the provider of the reproductive material.<sup>35</sup> It also prohibits anyone from knowingly implanting reproductive material, through ART, into a recipient who is not the provider of the reproductive material without the written consent of both the provider and recipient.<sup>36</sup>

## Statute of Limitations

The statute of limitations (SOL) determines the timeframe in which a criminal prosecution must be initiated.<sup>37</sup> The SOL in effect at the time a crime is committed controls.<sup>38</sup> In general, time is calculated from the day after a person commits an offense, and the filing of a charging document such as an indictment or information initiates the prosecution for the purpose of satisfying the time limitations.<sup>39</sup> Regardless of whether a charging document is filed, the time limitation does not run during any time an offender is continuously absent from the state or otherwise undiscoverable because he or she lacks a reasonably ascertainable home address or place of employment; however, an extension under this scenario may not exceed the normal time limitation by more than three years.<sup>40</sup>

Capital felonies,<sup>41</sup> life felonies,<sup>42</sup> and felonies resulting in a death are not subject to time constraints, and the state may bring charges at any time.<sup>43</sup> The standard time limitations for other crimes are:<sup>44</sup>

- Four years for a first degree felony.
- Three years for a second or third degree felony.
- Two years for a first degree misdemeanor.
- One year for a second degree misdemeanor.

Exceptions to the standard SOL apply to certain crimes and circumstances. In particular, Florida extends or removes time limitations or changes the date on which calculation of the SOL begins for sex crimes, including sexual battery, lewd or lascivious offenses, and human trafficking.<sup>45</sup>

The potential lapse of time between a fraudulent insemination and the discovery of such conduct may present a barrier to prosecution. Patients often do not discover fertility fraud until several years after the insemination has occurred.<sup>46</sup> For example, Donald Cline, an obstetrician from Indianapolis, Indiana,

---

<sup>32</sup> Tex. Penal Code Ann. § 22.011 (2019).

<sup>33</sup> Ind. Code § 35-43-5-3 (2019).

<sup>34</sup> Jody Lynee Madeira, *Fertility Fraud: An Update*, Society for Reproductive Technology (Oct. 21, 2019), <https://www.sart.org/news-and-publications/news-and-research/legally-speaking/fertility-fraud-an-update/> (last visited Feb. 2, 2020).

<sup>35</sup> Cal. Penal Code § 367g (2019).

<sup>36</sup> *Id.*

<sup>37</sup> Section 775.15, F.S.

<sup>38</sup> *Beyer v. State*, 76 So. 3d 1132, 1135 (Fla. 4th DCA 2012).

<sup>39</sup> Sections. 775.15(3)–(4), F.S.

<sup>40</sup> Section 775.15(5), F.S.

<sup>41</sup> Section 775.082, F.S.

<sup>42</sup> *Id.*

<sup>43</sup> Section 775.15(1), F.S.

<sup>44</sup> Section 775.15(2), F.S.

<sup>45</sup> An extension of a particular crime's SOL does not violate the ex post facto clause of the State Constitution if the extension takes effect before prosecution of an offense is barred by the old SOL and the new SOL clearly indicates it applies to cases pending upon its effective date. Art. I, s. 10, Fla. Const.; *Andrews v. State*, 392 So. 2d 270, 271 (Fla. 2d DCA 1980).

<sup>46</sup> *Supra* note 17.

fraudulently inseminated multiple patients and fathered several children between 1974 and 1987.<sup>47</sup> His conduct was not discovered until 2014.<sup>48</sup>

### Health Care Professional Licensure

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners.<sup>49</sup> MQA works in conjunction with 22 boards and 4 councils to license and regulate 7 types of health care facilities and more than 40 health care professions.<sup>50</sup> Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for MQA.

Section 456.072, F.S., authorizes a regulatory board or DOH, if there is no board, to discipline a health care practitioner's licensure for a number of offenses, including but not limited to:

- Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession;
- Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession; or
- Engaging or attempting to engage in sexual misconduct as defined in s. 456.063, F.S.

Although a board or DOH, if there is no board, may find that a health care practitioner who commits fraudulent insemination is subject to discipline under one of the fraud provisions. Sexual misconduct involves a health care practitioner engaging, or attempting to engage, in verbal or physical sexual activity outside the scope of the professional practice of his or her health care profession with a patient or client, or an immediate family member, guardian, or representative of a patient or client.<sup>51</sup> It is not known if health care practitioner who fraudulent inseminates a patient would be subject to licensure discipline since the behavior may be deemed not to constitute sexual activity as contemplated by statute.

If the appropriate regulatory board or DOH, if there is no board, finds that a licensee committed a violation, the board or DOH may:<sup>52</sup>

- Refuse to certify, or to certify with restrictions, an application for a license;
- Suspend or permanently revoke a license;
- Place a restriction on the licensee's practice or license;
- Impose an administrative fine not to exceed \$10,000 for each count or separate offense; if the violation is for fraud or making a false representation, a fine of \$10,000 must be imposed for each count or separate offense;
- Issue a reprimand or letter of concern;
- Place the licensee on probation;
- Require a corrective action plan;
- Refund fees billed and collected from the patient or third party on behalf of the patient; or
- Require the licensee to undergo remedial education.

The board or DOH, if there is no board, must consider what is necessary to protect the public or to compensate the patient when it decides the penalty to impose.<sup>53</sup>

---

<sup>47</sup> Id.

<sup>48</sup> Id.

<sup>49</sup> Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dieticians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

<sup>50</sup> Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2018-2019*, available at [http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/\\_documents/annual-report-1819.pdf](http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1819.pdf) (last visited February 2, 2020).

<sup>51</sup> Section 456.063, F.S. A person who commits such sexual misconduct is disqualified from licensure in this state.

<sup>52</sup> Section 456.072(2), F.S.

## **Effect of Proposed Changes**

CS/HB 1287 bans a physician from inseminating or implanting a patient or causing a patient to be inseminated or implanted with the reproductive material<sup>54</sup> of the physician. The bill establishes such action as a ground for disciplinary action against the physician's license.

The bill also prohibits any health care practitioner from intentionally implanting, inseminating, or causing to be implanted or inseminated reproductive material into a patient from a donor whom the patient has not consented to the use of reproductive material. A health care practitioner who intentionally performs this act is subject to licensure discipline.

Effective October 1, 2020, the bill creates the crime of reproductive battery, which prohibits a healthcare practitioner from intentionally penetrating the vagina of a patient with the reproductive material<sup>55</sup> of a donor or any object containing the reproductive material of a donor knowing the patient has not consented to the use of reproductive material from that donor. A health care practitioner who violates the prohibition commits a third degree felony, punishable by up to five years imprisonment and a \$5,000 fine.<sup>56</sup>

The bill tolls the statute of limitations for criminal prosecution of a reproductive battery until the date a violation is discovered and reported to law enforcement or another governmental agency. As such, the standard three-year statute of limitations for a third degree felony does not apply to a reproductive battery. This exception to the general statute of limitations will prevent a prosecution from being barred by a patient's failure to discover the healthcare practitioner's conduct until several years after the offense occurred.

The bill provides an effective date of July 1, 2020.

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

- Section 1:** Amends s. 456.072, F.S., relating to grounds for discipline; penalties; enforcement.  
**Section 2:** Amends s. 458.331, F.S., relating to grounds for discipline; action by the board and department.  
**Section 3:** Amends s. 459.015, F.S., relating to grounds for discipline; action by the board and department.  
**Section 4:** Creates s. 784.006, F.S., relating to reproductive battery effective October 1, 2020.  
**Section 5:** Provides an effective date of July 1, 2020.

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

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

#### **1. Revenues:**

None.

#### **2. Expenditures:**

The Criminal Justice Impact Conference considered the bill on February 10, 2020, and determined that it will likely have a positive insignificant impact, meaning it will result in an increase of 10 or fewer beds.<sup>57</sup>

---

<sup>53</sup> Id.

<sup>54</sup> The bill defines reproductive material as any human egg, preembryo, or sperm.

<sup>55</sup> Reproductive material means any human egg, preembryo, or sperm, as those terms are defined in s. 742.13, F.S.

<sup>56</sup> Ss. 775.082, 775.083, or 775.084, F.S.

<sup>57</sup> Criminal Justice Impact Conference, *CS/HB 1287*, available at

<http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSHB1287.pdf> (last visited February 14, 2020).



DOH may incur an insignificant, negative fiscal impact to investigate and the new grounds for discipline; however, existing resources should be adequate to absorb.

**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 has no effect on municipal or county governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

DOH has sufficient rule-making authority to implement the provisions of the bill relating to health care practitioner licensure discipline.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**