



145098

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/27/2020	.	
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The Committee on Rules (Book) recommended the following:

1 **Senate Substitute for Amendment (362874) (with title**
2 **amendment)**

3
4 Delete lines 42 - 189
5 and insert:

6 (a) "Assisted reproductive technology" means those
7 procreative procedures that involve the storage or laboratory
8 handling of human eggs, preembryos, or sperm, including, but not
9 limited to, in vitro fertilization embryo transfer, gamete
10 intrafallopian transfer, pronuclear stage transfer, tubal embryo
11 transfer, and zygote intrafallopian transfer.



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12 (b) "Commissioning party" means the intended parent or
13 parents of a child who will be conceived by means of assisted
14 reproductive technology.

15 (c) "Donor" means a person who donates reproductive
16 material, regardless of whether for personal use or
17 compensation.

18 (d) "Donor bank" means any facility that collects
19 reproductive material from donors for use by a fertility clinic.

20 (e) "Egg" means the unfertilized female reproductive cell.

21 (f) "Fertility clinic" means a facility in which
22 reproductive materials are subject to assisted reproductive
23 technology for the purpose of being transferred into the body of
24 a recipient.

25 (g) "Health care practitioner" has the same meaning as in
26 s. 456.001.

27 (h) "Preembryo" means the product of fertilization of an
28 egg by a sperm until the appearance of the embryonic axis.

29 (i) "Recipient" means a person who has a donor's
30 reproductive material transferred into her body.

31 (j) "Reproductive material" means any human egg, preembryo,
32 or sperm.

33 (k) "Reproductive storage facility" means a facility in
34 which reproductive materials are stored until such time that
35 they are transferred into the body of a recipient using assisted
36 reproductive technology.

37 (l) "Sperm" means the male reproductive cell.

38 (2) (a) CONTRACT REQUIREMENTS.—A commissioning party or
39 donor must enter into a contract with the donor bank, fertility
40 clinic, health care practitioner, or reproductive storage



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41 facility before he or she may make a donation of reproductive
42 material. The contract must, at a minimum, indicate what must be
43 done with the reproductive material if any of the following
44 occurs:

45 1. The donor dies or becomes incapacitated.

46 2. A designated recipient for the donation dies or becomes
47 incapacitated.

48 3. The commissioning party separates or the party's
49 marriage is dissolved.

50 4. One member of the commissioning party dies or becomes
51 incapacitated.

52 5. The reproductive material is unused, including whether
53 it may be disposed of, offered to a different recipient, or
54 donated to science.

55 6. Any other unforeseen circumstance.

56 (b) The donor bank, fertility clinic, health care
57 practitioner, or reproductive storage facility must ensure that
58 each donation is clearly labeled according to the terms of each
59 donor or commissioning party's contract.

60 (c) The donor bank, fertility clinic, health care
61 practitioner, or reproductive storage facility must ensure that
62 the donation is transferred to a recipient, returned, disposed
63 of, or stored according to the terms of the contract.

64 (3) BEST PRACTICE POLICIES.—

65 (a) By January 1, 2021, each donor bank, fertility clinic,
66 health care practitioner, and reproductive storage facility that
67 provides assisted reproductive technology in this state shall
68 develop written best practice policies consistent with 42 U.S.C.
69 s. 263a(f).



70 (b) The best practice policies must be submitted to the
71 appropriate licensing agency or department annually for review.

72 (c) All reproductive material stored by a donor bank,
73 fertility clinic, health care practitioner, or reproductive
74 storage facility must be clearly labeled.

75 (d) A donor bank, fertility clinic, health care
76 practitioner, or reproductive storage facility must comply with
77 the terms of the contract pursuant to subsection (2).

78 (e) A donor bank, fertility clinic, health care
79 practitioner, or reproductive storage facility must maintain all
80 records for at least 30 years.

81 (f) A health care practitioner may not transfer or
82 inseminate a recipient or cause a recipient to have transferred
83 into her body or be inseminated with the reproductive material
84 of the health care practitioner.

85 Section 2. Paragraphs (pp) and (qq) are added to subsection
86 (1) of section 456.072, Florida Statutes, to read:

87 456.072 Grounds for discipline; penalties; enforcement.—

88 (1) The following acts shall constitute grounds for which
89 the disciplinary actions specified in subsection (2) may be
90 taken:

91 (pp) Intentionally transferring into a recipient or
92 inseminating a recipient with, or causing a recipient to have
93 transferred into her body or be inseminated with, the
94 reproductive material, as defined in s. 383.61, of a donor
95 without the recipient's consent.

96 (qq) Violating s. 383.61.

97 Section 3. Subsection (1) of section 456.074, Florida
98 Statutes, is amended to read:



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99 456.074 Certain health care practitioners; immediate
100 suspension of license.—

101 (1) The department shall issue an emergency order
102 suspending the license of any person licensed under chapter 458,
103 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
104 chapter 464, chapter 465, chapter 466, or chapter 484 who pleads
105 guilty to, is convicted or found guilty of, or who enters a plea
106 of nolo contendere to, regardless of adjudication, to:

107 (a) A felony under chapter 409, chapter 817, or chapter 893
108 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396;
109 ~~or~~

110 (b) A misdemeanor or felony under 18 U.S.C. s. 669, ss.
111 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s.
112 1349, or s. 1518 or 42 U.S.C. ss. 1320a-7b, relating to the
113 Medicaid program; or

114 (c) A felony under s. 784.086, relating to a reproductive
115 battery.

116 Section 4. Section 456.51, Florida Statutes, is created to
117 read:

118 456.51 Health care practitioners; consent for pelvic
119 examinations.—

120 (1) As used in this section, the term "pelvic examination"
121 means the series of tasks that comprise an examination of the
122 vagina, cervix, uterus, fallopian tubes, ovaries, rectum, or
123 external pelvic tissue or organs using any combination of
124 modalities, which may include, but need not be limited to, the
125 health care provider's gloved hand or instrumentation, in
126 accordance with the prevailing professional standard of care for
127 the health care practitioner as specified in s. 766.102.



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128 (2) A health care practitioner may not perform a pelvic
129 examination on a patient without the written consent of the
130 patient or the patient's legal representative executed specific
131 to, and expressly identifying, the pelvic examination, unless:

132 (a) A court orders performance of the pelvic examination
133 for the collection of evidence;

134 (b) The pelvic examination is immediately necessary to
135 avert a serious risk of imminent, substantial, and irreversible
136 physical impairment of a major bodily function of the patient;
137 or

138 (c) The pelvic exam is indicated in the standard care for a
139 procedure that the patient has consented to.

140 Section 5. Paragraphs (ww) and (xx) are added to subsection
141 (1) of section 458.331, Florida Statutes, to read:

142 458.331 Grounds for disciplinary action; action by the
143 board and department.—

144 (1) The following acts constitute grounds for denial of a
145 license or disciplinary action, as specified in s. 456.072(2):

146 (ww) Intentionally transferring into a recipient or
147 inseminating a recipient with, or causing a recipient to have
148 transferred into her body or be inseminated with, the
149 reproductive material, as defined in s. 383.61, of a donor
150 without the recipient's consent.

151 (xx) Violating s. 383.61.

152 Section 6. Paragraphs (yy) and (zz) are added to subsection
153 (1) of section 459.015, Florida Statutes, to read:

154 459.015 Grounds for disciplinary action; action by the
155 board and department.—

156 (1) The following acts constitute grounds for denial of a



157 license or disciplinary action, as specified in s. 456.072(2):
158 (yy) Intentionally transferring into a recipient or
159 inseminating a recipient with, or causing a recipient to have
160 transferred into her body or be inseminated with, the
161 reproductive material, as defined in s. 383.61, of a donor
162 without the recipient's consent.

163 (zz) Violating s. 383.61.

164 Section 7. Section 784.086, Florida Statutes, is created to
165 read:

166 784.086 Reproductive battery.—

167 (1) As used in this section, the term:

168 (a) "Donor" has the same meaning as in s. 383.61.

169 (b) "Health care practitioner" has the same meaning as in
170 s. 456.001.

171 (c) "Recipient" has the same meaning as in s. 383.61.

172 (d) "Reproductive material" has the same meaning as in s.
173 383.61.

174 (2) A health care practitioner may not intentionally
175 transfer into the body of a recipient the reproductive material
176 of a donor or any object containing the reproductive material of
177 a donor, knowing that the recipient has not consented to the use
178 of the reproductive material from that donor.

179 (a) A health care practitioner who violates this subsection
180 commits a felony of the third degree, punishable as provided in
181 s. 775.082, s. 775.083, or s. 775.084.

182 (b) A health care practitioner who violates this section
183 and is the donor of the reproductive material commits a felony
184 of the second degree, punishable as provided in s. 775.082, s.
185 775.083, or s. 775.084, unless the recipient has provided



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186 written consent to the use of the health care practitioner's
187 reproductive material.

188
189 ===== T I T L E A M E N D M E N T =====

190 And the title is amended as follows:

191 Delete lines 5 - 30

192 and insert:

193 donor bank, fertility clinic, health care
194 practitioner, or reproductive storage facility before
195 donating reproductive material; providing requirements
196 for the contract; requiring certain donor banks,
197 fertility clinics, health care practitioners, and
198 reproductive storage facilities to develop certain
199 written best practice policies by a specified date;
200 requiring the annual submission of such written
201 policies to the appropriate licensing agency or the
202 Department of Health; providing labeling, contract
203 compliance, and record retention requirements;
204 prohibiting a health care practitioner from implanting
205 or inseminating a recipient with the health care
206 practitioner's own reproductive material; amending s.
207 456.072, F.S.; providing grounds for disciplinary
208 action; amending s. 456.074, F.S.; requiring the
209 department to immediately suspend the license of
210 certain health care practitioners under certain
211 circumstances; creating s. 456.51, F.S.; defining the
212 term "pelvic examination"; prohibiting a health care
213 practitioner from performing a pelvic examination on a
214 patient without first obtaining the written consent of



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215 the patient or the patient's legal representative;
216 providing exceptions; amending ss. 458.331 and
217 459.015, F.S.; providing grounds for disciplinary
218 action; creating s. 784.086, F.S.; defining terms;
219 establishing the criminal offense of reproductive
220 battery; providing an exception; providing criminal