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LEGISLATIVE ACTION

Senate

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House

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The Committee on Rules (Book) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 42 - 186

and insert:

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

(b) "Commissioning party" means the intended parent or



362874

12 parents of a child who will be conceived by means of assisted  
13 reproductive technology.

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

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

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

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

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

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

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

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

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

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

37 (2) (a) CONTRACT REQUIREMENTS.—A commissioning party or  
38 donor must enter into a contract with the donor bank, fertility  
39 clinic, health care practitioner, or reproductive storage  
40 facility before he or she may make a donation of reproductive



362874

41 material. The contract must, at a minimum, indicate what must be  
42 done with the reproductive material if any of the following  
43 occurs:

44 1. The donor dies or becomes incapacitated.

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

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

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

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

54 6. Any other unforeseen circumstance.

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

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

63 (3) BEST PRACTICE POLICIES.—

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

69 (b) The best practice policies must be submitted to the



362874

70 appropriate licensing agency or department annually for review.

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

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

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

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

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

86 456.072 Grounds for discipline; penalties; enforcement.—

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

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

95 (qq) Violating s. 383.61.

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

98 456.074 Certain health care practitioners; immediate



362874

99 suspension of license.—

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

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

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

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

115 Section 3. Section 456.51, Florida Statutes, is created to  
116 read:

117 456.51 Health care practitioners; consent for pelvic  
118 examinations.—

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

127 (2) A health care practitioner may not perform a pelvic



362874

128 examination on a patient without the written consent of the  
129 patient or the patient's legal representative executed specific  
130 to, and expressly identifying, the pelvic examination, unless:

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

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

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

139 Section 4. Paragraphs (ww) and (xx) are added to subsection  
140 (1) of section 458.331, Florida Statutes, to read:

141 458.331 Grounds for disciplinary action; action by the  
142 board and department.—

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

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

150 (xx) Violating s. 383.61.

151 Section 5. Paragraphs (yy) and (zz) are added to subsection  
152 (1) of section 459.015, Florida Statutes, to read:

153 459.015 Grounds for disciplinary action; action by the  
154 board and department.—

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



362874

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

162       (zz) Violating s. 383.61.

163       Section 6. Section 784.086, Florida Statutes, is created to  
164 read:

165       784.086 Reproductive battery.—

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

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

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

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

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

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

178       (b) If a recipient has requested the reproductive material  
179 of an anonymous donor, the health care practitioner may not  
180 donate the health care practitioner's reproductive material to  
181 the recipient, unless the recipient has provided written consent  
182 to the use of the reproductive material from that health care  
183 practitioner.

184       (c) A health care practitioner who violates this section  
185



362874

186 ===== T I T L E A M E N D M E N T =====

187 And the title is amended as follows:

188 Delete lines 5 - 30

189 and insert:

190 donor bank, fertility clinic, health care  
191 practitioner, or reproductive storage facility before  
192 donating reproductive material; providing requirements  
193 for the contract; requiring certain donor banks,  
194 fertility clinics, health care practitioners, and  
195 reproductive storage facilities to develop certain  
196 written best practice policies by a specified date;  
197 requiring the annual submission of such written  
198 policies to the appropriate licensing agency or the  
199 Department of Health; providing labeling, contract  
200 compliance, and record retention requirements;  
201 prohibiting a health care practitioner from implanting  
202 or inseminating a recipient with the health care  
203 practitioner's own reproductive material; amending s.  
204 456.072, F.S.; providing grounds for disciplinary  
205 action; amending s. 456.074, F.S.; requiring the  
206 department to immediately suspend the license of  
207 certain health care practitioners under certain  
208 circumstances; creating s. 456.51, F.S.; defining the  
209 term "pelvic examination"; prohibiting a health care  
210 practitioner from performing a pelvic examination on a  
211 patient without first obtaining the written consent of  
212 the patient or the patient's legal representative;  
213 providing exceptions; amending ss. 458.331 and  
214 459.015, F.S.; providing grounds for disciplinary





362874

215       action; creating s. 784.086, F.S.; defining terms;  
216       establishing the criminal offense of reproductive  
217       battery; providing an exception; providing criminal