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588-02413A-23

Proposed Committee Substitute by the Committee on Health Policy

A bill to be entitled

An act relating to treatments for sex reassignment; creating s. 61.5175, F.S.; granting courts of this state jurisdiction to enter, modify, or stay a child custody determination relating to a child present in this state to the extent necessary to protect the child from being subjected to sex-reassignment prescriptions or procedures in another state; creating s. 286.31, F.S.; defining the term "governmental entity"; prohibiting certain public entities from expending state funds for the provision of sex-reassignment prescriptions or procedures; amending s. 395.003, F.S.; requiring certain licensed facilities, by a specified date and as a condition of licensure thereafter, to provide a signed attestation of specified information to the Agency for Health Care Administration; requiring the agency to revoke a facility's license for failure to provide such attestation, subject to the due process procedures of ch. 120, F.S.; amending s. 456.001, F.S.; defining the terms "sex" and "sex-reassignment prescriptions or procedures"; creating s. 456.52, F.S.; prohibiting sex-reassignment prescriptions and procedures for patients younger than 18 years of age; providing an exception; requiring the Board of Medicine and the Board of Osteopathic Medicine to adopt certain emergency rules; requiring that such prescriptions and procedures for patients older than 18 years of age be



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29 prescribed, administered, or performed only with the  
30 voluntary and informed consent of the patient;  
31 providing criteria for what constitutes voluntary and  
32 informed consent; providing that only a physician may  
33 prescribe, administer, or perform such prescriptions  
34 and procedures; defining the term "physician";  
35 providing applicability; providing for disciplinary  
36 action; providing criminal penalties; requiring the  
37 Department of Health to adopt certain emergency rules;  
38 providing that such emergency rules remain in effect  
39 until they are replaced by nonemergency rules;  
40 amending s. 456.074, F.S.; requiring the department to  
41 immediately suspend the license of a health care  
42 practitioner who is arrested for committing or  
43 attempting, soliciting, or conspiring to commit  
44 specified violations related to sex-reassignment  
45 prescriptions or procedures for a patient younger than  
46 18 years of age; amending ss. 458.328 and 459.0138,  
47 F.S.; requiring registered physicians' offices to  
48 provide a signed attestation of specified information  
49 to the department by a specified date; beginning on a  
50 specified date, requiring physicians' offices seeking  
51 such registration to provide the signed attestation as  
52 a condition of registration; providing grounds for  
53 disciplinary action; providing severability; providing  
54 a directive to the Division of Law Revision; providing  
55 an effective date.

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57 Be It Enacted by the Legislature of the State of Florida:



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Section 1. Section 61.5175, Florida Statutes, is created to read:

61.5175 Protection of children from sex-reassignment prescriptions or procedures.-Notwithstanding any other provision of this part, a court of this state has jurisdiction to enter, modify, or stay a child custody determination relating to a child who is present in this state to the extent necessary to protect the child from being subjected to sex-reassignment prescriptions or procedures, as defined in s. 456.001, in another state.

Section 2. Section 286.31, Florida Statutes, is created to read:

286.31 Prohibited use of state funds.-

(1) As used in this section, the term "governmental entity" means the state or any political subdivision thereof, including the executive, legislative, and judicial branches of government; the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions; and any agencies that are subject to chapter 286.

(2) A governmental entity, the state group health insurance program, a managing entity as defined in s. 394.9082, or a managed care plan providing services under part IV of chapter 409 may not expend state funds as described in s. 215.31 for sex-reassignment prescriptions or procedures as defined in s. 456.001.

Section 3. Present subsections (6) through (10) of section 395.003, Florida Statutes, are redesignated as subsections (7) through (11), respectively, a new subsection (6) is added to



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87 that section, and present subsections (9) and (10) of that  
88 section are amended, to read:

89 395.003 Licensure; denial, suspension, and revocation.—

90 (6) By July 1, 2023, each licensed facility must provide a  
91 signed attestation to the agency stating that the facility does  
92 not offer or provide sex-reassignment prescriptions or  
93 procedures, as defined in s. 456.001, to patients younger than  
94 18 years of age, unless authorized under s. 456.52(1)(b), and  
95 does not refer such patients to other providers for such  
96 services. Beginning July 1, 2023, each licensed facility shall  
97 provide the signed attestation to the agency upon initial  
98 licensure and as a requirement for each licensure renewal. Under  
99 the due process requirements provided in chapter 120, the agency  
100 must revoke the license of any licensed facility that fails to  
101 provide the attestation required by this subsection.

102 (10)~~(9)~~ A hospital licensed as of June 1, 2004, shall be  
103 exempt from subsection (9) ~~(8)~~ as long as the hospital maintains  
104 the same ownership, facility street address, and range of  
105 services that were in existence on June 1, 2004. Any transfer of  
106 beds, or other agreements that result in the establishment of a  
107 hospital or hospital services within the intent of this section,  
108 shall be subject to subsection (9) ~~(8)~~. Unless the hospital is  
109 otherwise exempt under subsection (9) ~~(8)~~, the agency shall deny  
110 or revoke the license of a hospital that violates any of the  
111 criteria set forth in that subsection.

112 (11)~~(10)~~ The agency may adopt rules implementing the  
113 licensure requirements set forth in subsection (9) ~~(8)~~. Within  
114 14 days after rendering its decision on a license application or  
115 revocation, the agency shall publish its proposed decision in



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116 the Florida Administrative Register. Within 21 days after  
117 publication of the agency's decision, any authorized person may  
118 file a request for an administrative hearing. In administrative  
119 proceedings challenging the approval, denial, or revocation of a  
120 license pursuant to subsection (9) ~~(8)~~, the hearing must be  
121 based on the facts and law existing at the time of the agency's  
122 proposed agency action. Existing hospitals may initiate or  
123 intervene in an administrative hearing to approve, deny, or  
124 revoke licensure under subsection (9) ~~(8)~~ based upon a showing  
125 that an established program will be substantially affected by  
126 the issuance or renewal of a license to a hospital within the  
127 same district or service area.

128 Section 4. Subsections (8) and (9) are added to section  
129 456.001, Florida Statutes, to read:

130 456.001 Definitions.—As used in this chapter, the term:

131 (8) "Sex" means the classification of a person as either  
132 male or female based on the organization of the human body of  
133 such person for a specific reproductive role, as indicated by  
134 the person's sex chromosomes, naturally occurring sex hormones,  
135 and internal and external genitalia present at birth.

136 (9) (a) "Sex-reassignment prescriptions or procedures"  
137 means:

138 1. The prescription or administration of puberty blockers  
139 for the purpose of attempting to stop or delay normal puberty in  
140 order to affirm a person's perception of his or her sex if that  
141 perception is inconsistent with the person's sex as defined in  
142 subsection (8).

143 2. The prescription or administration of hormones or  
144 hormone antagonists to affirm a person's perception of his or



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145 her sex if that perception is inconsistent with the person's sex  
146 as defined in subsection (8).

147 3. Any medical procedure, including a surgical procedure,  
148 to affirm a person's perception of his or her sex if that  
149 perception is inconsistent with the person's sex as defined in  
150 subsection (8).

151 (b) The term does not include:

152 1. Treatment provided by a physician who, in his or her  
153 good faith clinical judgment, performs procedures upon or  
154 provides therapies to a minor born with a medically verifiable  
155 genetic disorder of sexual development, including any of the  
156 following:

157 a. External biological sex characteristics that are  
158 unresolvably ambiguous.

159 b. A disorder of sexual development in which the physician  
160 has determined through genetic or biochemical testing that the  
161 patient does not have a normal sex chromosome structure, sex  
162 steroid hormone production, or sex steroid hormone action for a  
163 male or female, as applicable.

164 2. Prescriptions or procedures to treat an infection, an  
165 injury, a disease, or a disorder that has been caused or  
166 exacerbated by the performance of any sex-reassignment  
167 prescription or procedure, regardless of whether such  
168 prescription or procedure was performed in accordance with state  
169 or federal law.

170 3. Prescriptions or procedures provided to a patient for  
171 the treatment of a physical disorder, physical injury, or  
172 physical illness that would, as certified by a physician  
173 licensed under chapter 458 or chapter 459, place the individual



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174 in imminent danger of death or impairment of a major bodily  
175 function without the prescription or procedure.

176 Section 5. Section 456.52, Florida Statutes, is created to  
177 read:

178 456.52 Sex-reassignment prescriptions and procedures;  
179 prohibitions; informed consent.-

180 (1) Sex-reassignment prescriptions and procedures are  
181 prohibited for patients younger than 18 years of age, except  
182 that:

183 (a) The Board of Medicine and the Board of Osteopathic  
184 Medicine shall adopt emergency rules pertaining to standards of  
185 practice under which a patient younger than 18 years of age may  
186 continue to be treated with a prescription consistent with those  
187 referenced under s. 456.001(9)(a)1. or 2. if such treatment for  
188 sex reassignment was commenced before, and is still active on,  
189 the effective date of this act.

190 (b) A patient meeting the criteria of paragraph (a) may  
191 continue to be treated by a physician with such prescriptions  
192 according to rules adopted under paragraph (a) or nonemergency  
193 rules adopted under paragraph (6)(b).

194 (2) If sex-reassignment prescriptions or procedures are  
195 prescribed for or administered or performed on patients 18 years  
196 of age or older, consent must be voluntary, informed, and in  
197 writing on forms approved by the department. Consent to sex-  
198 reassignment prescriptions or procedures is voluntary and  
199 informed only if the physician who is to prescribe or administer  
200 the pharmaceutical product or perform the procedure has, at a  
201 minimum, while physically present in the same room:

202 (a) Informed the patient of the nature and risks of the



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203 prescription or procedure in order for the patient to make a  
204 prudent decision;

205 (b) Provided the informed consent form, as approved by the  
206 department, to the patient; and

207 (c) Received the patient's written acknowledgment, before  
208 the prescription or procedure is prescribed, administered, or  
209 performed, that the information required to be provided under  
210 this subsection has been provided.

211 (3) Sex-reassignment prescriptions or procedures may not be  
212 prescribed, administered, or performed except by a physician.  
213 For the purposes of this section, the term "physician" is  
214 defined as a physician licensed under chapter 458 or chapter 459  
215 or a physician practicing medicine or osteopathic medicine in  
216 the employment of the Federal Government.

217 (4) Consent required under subsection (2) does not apply to  
218 renewals of prescriptions consistent with those referenced under  
219 s. 456.001(9)(a)1. and 2. if a physician and his or her patient  
220 have met the requirements for consent for the initial  
221 prescription or renewal. However, separate consent is required  
222 for any new prescription for a pharmaceutical product not  
223 previously prescribed to the patient.

224 (5)(a) Violation of this section constitutes grounds for  
225 disciplinary action under this chapter and chapter 458 or  
226 chapter 459, as applicable.

227 (b) Any health care practitioner who willfully or actively  
228 participates in a violation of subsection (1) commits a felony  
229 of the third degree, punishable as provided in s. 775.082, s.  
230 775.083, or s. 775.084.

231 (c) Any health care practitioner who violates subsection





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232 (2), subsection (3), or subsection (4) commits a misdemeanor of  
233 the first degree, punishable as provided in s. 775.082 or s.  
234 775.083.

235 (6)(a) The department shall adopt emergency rules to  
236 implement this section.

237 (b) Any emergency rules adopted under this section are  
238 exempt from s. 120.54(4)(c) and shall remain in effect until  
239 replaced by rules adopted under the nonemergency rulemaking  
240 procedures of the Administrative Procedure Act.

241 Section 6. Present paragraphs (c) through (gg) of  
242 subsection (5) of section 456.074, Florida Statutes, are  
243 redesignated as paragraphs (d) through (hh), respectively, and a  
244 new paragraph (c) is added to that subsection, to read:

245 456.074 Certain health care practitioners; immediate  
246 suspension of license.—

247 (5) The department shall issue an emergency order  
248 suspending the license of any health care practitioner who is  
249 arrested for committing or attempting, soliciting, or conspiring  
250 to commit any act that would constitute a violation of any of  
251 the following criminal offenses in this state or similar  
252 offenses in another jurisdiction:

253 (c) Section 456.52(5)(b), relating to prescribing,  
254 administering, or performing sex-reassignment prescriptions or  
255 procedures for a patient younger than 18 years of age.

256 Section 7. Paragraph (c) of subsection (1) of section  
257 458.328, Florida Statutes, is amended to read:

258 458.328 Office surgeries.—

259 (1) REGISTRATION.—

260 (c) Each of the following is ~~As~~ a condition of



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261 registration:~~r~~

262 1. An ~~each~~ office must establish financial responsibility  
263 by demonstrating that it has met and continues to maintain, at a  
264 minimum, the same requirements applicable to physicians in ss.  
265 458.320 and 459.0085.

266 2. Each physician practicing at an office registered under  
267 this section or s. 459.0138 must meet the financial  
268 responsibility requirements under s. 458.320 or s. 459.0085, as  
269 applicable.

270 3. By July 1, 2023, each office registered under this  
271 section must provide a signed attestation to the department  
272 stating that the office does not offer or provide sex-  
273 reassignment prescriptions or procedures, as defined in s.  
274 456.001, to patients younger than 18 years of age, unless  
275 authorized under s. 456.52(1)(b), and does not refer such  
276 patients to other providers for such services. Beginning July 1,  
277 2023, any office seeking registration must provide such signed  
278 attestation to the department. An office's failure to provide  
279 the signed attestation is grounds for denial of registration or  
280 the suspension or revocation of registration under paragraph  
281 (f).

282 Section 8. Paragraph (c) of subsection (1) of section  
283 459.0138, Florida Statutes, is amended to read:

284 459.0138 Office surgeries.-

285 (1) REGISTRATION.-

286 (c) Each of the following is ~~As~~ a condition of  
287 registration:~~r~~

288 1. An ~~each~~ office must establish financial responsibility  
289 by demonstrating that it has met and continues to maintain, at a



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290 minimum, the same requirements applicable to physicians in ss.  
291 458.320 and 459.0085.

292 2. Each physician practicing at an office registered under  
293 this section or s. 458.328 must meet the financial  
294 responsibility requirements under s. 458.320 or s. 459.0085, as  
295 applicable.

296 3. By July 1, 2023, each office registered under this  
297 section must provide a signed attestation to the department  
298 stating that the office does not offer or provide sex-  
299 reassignment prescriptions or procedures, as defined in s.  
300 456.001, to patients younger than 18 years of age , unless  
301 authorized under s. 456.52(1)(b), and does not refer such  
302 patients to other providers for such services. Beginning July 1,  
303 2023, any office seeking registration must provide such signed  
304 attestation to the department. An office's failure to provide  
305 the signed attestation is grounds for denial of registration or  
306 the suspension or revocation of registration under paragraph  
307 (f).

308 Section 9. If any provision of this act or its application  
309 to any person or circumstance is held invalid, the invalidity  
310 does not affect other provisions or applications of this act  
311 which can be given effect without the invalid provision or  
312 application, and to this end the provisions of this act are  
313 severable.

314 Section 10. The Division of Law Revision is directed to  
315 replace the phrase "the effective date of this act" wherever it  
316 occurs in this act with the date this act becomes a law.

317 Section 11. This act shall take effect upon becoming a law.