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LEGISLATIVE ACTION

Senate	.	House
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Floor: AD/RM	.	Floor: C
05/04/2023 11:24 AM	.	05/04/2023 11:59 AM
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Senator Yarborough moved the following:

1 **Senate Amendment to House Amendment (256341) (with title**
2 **amendment)**

3
4 Delete lines 5 - 197
5 and insert:
6 being subjected to sex-reassignment prescriptions or procedures,
7 as defined in s. 456.001.

8 Section 2. Subsection (1) of section 61.534, Florida
9 Statutes, is amended to read:

10 61.534 Warrant to take physical custody of child.—

11 (1) Upon the filing of a petition seeking enforcement of a



12 child custody determination, the petitioner may file a verified
13 application for the issuance of a warrant to take physical
14 custody of the child if the child is likely to imminently suffer
15 serious physical harm or removal from this state. Serious
16 physical harm includes, but is not limited to, being subjected
17 to sex-reassignment prescriptions or procedures as defined in s.
18 456.001.

19 Section 3. Section 286.31, Florida Statutes, is created to
20 read:

21 286.31 Prohibited use of state funds.-

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

28 (2) A governmental entity, a public postsecondary
29 educational institution as described in s. 1000.04, the state
30 group health insurance program, a managing entity as defined in
31 s. 394.9082, or a managed care plan providing services under
32 part IV of chapter 409 may not expend state funds as described
33 in s. 215.31 for sex-reassignment prescriptions or procedures as
34 defined in s. 456.001.

35 Section 4. Subsections (8) and (9) are added to section
36 456.001, Florida Statutes, to read:

37 456.001 Definitions.-As used in this chapter, the term:

38 (8) "Sex" means the classification of a person as either
39 male or female based on the organization of the human body of
40 such person for a specific reproductive role, as indicated by



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41 the person's sex chromosomes, naturally occurring sex hormones,
42 and internal and external genitalia present at birth.

43 (9) (a) "Sex-reassignment prescriptions or procedures"

44 means:

45 1. The prescription or administration of puberty blockers
46 for the purpose of attempting to stop or delay normal puberty in
47 order to affirm a person's perception of his or her sex if that
48 perception is inconsistent with the person's sex as defined in
49 subsection (8).

50 2. The prescription or administration of hormones or
51 hormone antagonists to affirm a person's perception of his or
52 her sex if that perception is inconsistent with the person's sex
53 as defined in subsection (8).

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

58 (b) The term does not include:

59 1. Treatment provided by a physician who, in his or her
60 good faith clinical judgment, performs procedures upon or
61 provides therapies to a minor born with a medically verifiable
62 genetic disorder of sexual development, including any of the
63 following:

64 a. External biological sex characteristics that are
65 unresolvably ambiguous.

66 b. A disorder of sexual development in which the physician
67 has determined through genetic or biochemical testing that the
68 patient does not have a normal sex chromosome structure, sex
69 steroid hormone production, or sex steroid hormone action for a



70 male or female, as applicable.

71 2. Prescriptions or procedures to treat an infection, an
72 injury, a disease, or a disorder that has been caused or
73 exacerbated by the performance of any sex-reassignment
74 prescription or procedure, regardless of whether such
75 prescription or procedure was performed in accordance with state
76 or federal law.

77 3. Prescriptions or procedures provided to a patient for
78 the treatment of a physical disorder, physical injury, or
79 physical illness that would, as certified by a physician
80 licensed under chapter 458 or chapter 459, place the individual
81 in imminent danger of death or impairment of a major bodily
82 function without the prescription or procedure.

83 Section 5. Section 456.52, Florida Statutes, is created to
84 read:

85 456.52 Sex-reassignment prescriptions and procedures;
86 prohibitions; informed consent.-

87 (1) Sex-reassignment prescriptions and procedures are
88 prohibited for patients younger than 18 years of age, except
89 that:

90 (a) The Board of Medicine and the Board of Osteopathic
91 Medicine shall, within 60 days after the effective date of this
92 act, adopt emergency rules pertaining to standards of practice
93 under which a patient younger than 18 years of age may continue
94 to be treated with a prescription consistent with those
95 referenced under s. 456.001(9)(a)1. or 2. if such treatment for
96 sex reassignment was commenced before, and is still active on,
97 the effective date of this act. In developing rules under this
98 paragraph, the boards shall consider requirements for physicians



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99 to obtain informed consent from such patient's parent or legal
100 guardian, consistent with the parameters of informed consent
101 under subsections (2) and (4), for such prescription treatment,
102 and shall consider the provision of professional counseling
103 services for such patient by a board-certified psychiatrist
104 licensed under chapter 458 or chapter 459 or a psychologist
105 licensed under chapter 490 in conjunction with such prescription
106 treatment.

107 (b) A patient meeting the criteria of paragraph (a) may
108 continue to be treated by a physician with such prescriptions
109 according to rules adopted under paragraph (a) or nonemergency
110 rules adopted under paragraph (6) (b).

111 (2) If sex-reassignment prescriptions or procedures are
112 prescribed for or administered or performed on patients 18 years
113 of age or older, consent must be voluntary, informed, and in
114 writing on forms adopted in rule by the Board of Medicine and
115 the Board of Osteopathic Medicine. Consent to sex-reassignment
116 prescriptions or procedures is voluntary and informed only if
117 the physician who is to prescribe or administer the
118 pharmaceutical product or perform the procedure has, at a
119 minimum, while physically present in the same room:

120 (a) Informed the patient of the nature and risks of the
121 prescription or procedure in order for the patient to make a
122 prudent decision;

123 (b) Provided the informed consent form, as adopted in rule
124 by the Board of Medicine and the Board of Osteopathic Medicine,
125 to the patient; and

126 (c) Received the patient's written acknowledgment, before
127 the prescription or procedure is prescribed, administered, or



128 performed, that the information required to be provided under
129 this subsection has been provided.

130 (3) Sex-reassignment prescriptions or procedures may not be
131 prescribed, administered, or performed except by a physician.
132 For the purposes of this section, the term "physician" is
133 defined as a physician licensed under chapter 458 or chapter 459
134 or a physician practicing medicine or osteopathic medicine in
135 the employment of the Federal Government.

136 (4) Consent required under subsection (2) does not apply to
137 renewals of prescriptions consistent with those referenced under
138 s. 456.001(9) (a)1. and 2. if a physician and his or her patient
139 have met the requirements for consent for the initial
140 prescription or renewal. However, separate consent is required
141 for any new prescription for a pharmaceutical product not
142 previously prescribed to the patient.

143 (5) (a) Violation of this section constitutes grounds for
144 disciplinary action under this chapter and chapter 458 or
145 chapter 459, as applicable.

146 (b) Any health care practitioner who willfully or actively
147 participates in a violation of subsection (1) commits a felony
148 of the third degree, punishable as provided in s. 775.082, s.
149 775.083, or s. 775.084.

150 (c) Any health care practitioner who violates subsection
151 (2), subsection (3), or subsection (4) commits a misdemeanor of
152 the first degree, punishable as provided in s. 775.082 or s.
153 775.083.

154 (6) (a) The Board of Medicine and the Board of Osteopathic
155 Medicine shall adopt emergency rules to implement this section.

156 (b) Any emergency rules adopted under this section are



157 exempt from s. 120.54(4)(c) and shall remain in effect until
158 replaced by rules adopted under the nonemergency rulemaking
159 procedures of the Administrative Procedure Act.

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

164 456.074 Certain health care practitioners; immediate
165 suspension of license.—

166 (5) The department shall issue an emergency order
167 suspending the license of any health care practitioner who is
168 arrested for committing or attempting, soliciting, or conspiring
169 to commit any act that would constitute a violation of any of
170 the following criminal offenses in this state or similar
171 offenses in another jurisdiction:

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

175 Section 7. Section 766.318, Florida Statutes, is created to
176 read:

177 766.318 Civil liability for provision of sex-reassignment
178 prescriptions or procedures to minors.—

179 (1) A cause of action exists to recover damages for
180 personal injury or death resulting from the provision of sex-
181 reassignment prescriptions or procedures, as defined in s.
182 456.001, to a person younger than 18 years of age which are
183 prohibited by s. 456.52(1).

184 (2) The limitations on punitive damages in s. 768.73(1) do
185 not apply to actions brought under this section.



186 (3) An action brought under this section:

187 (a) May be commenced within 20 years after the cessation or
188 completion of the sex-reassignment prescription or procedure.

189 (b) Is in addition to any other remedy authorized by law.

190 (4) The cause of action created by this section does not
191 apply to:

192 (a) Treatment with sex-reassignment prescriptions if such
193 treatment is consistent with s. 456.001(9) (a)1. or 2. and was
194 commenced on or before, and is still active on, the effective
195 date of this act.

196 (b) Sex-reassignment prescriptions or procedures that were
197 ceased or completed on or before the effective date of this act.

198 Section 8. If any provision of this act or its application
199 to any person or circumstance is held invalid, the invalidity
200 does not affect other provisions or applications of this act
201 which can be given effect without the invalid provision or
202 application, and to this end the provisions of this act are
203 severable.

204 Section 9. The Division of Law Revision is directed to
205 replace the phrase "the effective date of this act" wherever it
206 occurs in this act with the date this act becomes a law.

207
208 ===== T I T L E A M E N D M E N T =====

209 And the title is amended as follows:

210 Delete lines 202 - 241

211 and insert:

212 to or is threatened with being subjected to sex-
213 reassignment prescriptions or procedures; amending s.
214 61.534, F.S.; providing that, for purposes of warrants



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215 to take physical custody of a child in certain child
216 custody enforcement proceedings, serious physical harm
217 to the child includes, but is not limited to, being
218 subjected to sex-reassignment prescriptions or
219 procedures; creating s. 286.31, F.S.; defining the
220 term "governmental entity"; prohibiting certain public
221 entities from expending state funds for the provision
222 of sex-reassignment prescriptions or procedures;
223 amending s. 456.001, F.S.; defining the terms "sex"
224 and "sex-reassignment prescriptions or procedures";
225 creating s. 456.52, F.S.; prohibiting sex-reassignment
226 prescriptions and procedures for patients younger than
227 18 years of age; providing an exception; requiring the
228 Board of Medicine and the Board of Osteopathic
229 Medicine to adopt certain emergency rules within a
230 specified timeframe; requiring the boards to consider
231 specified factors in developing such rules; requiring
232 that such prescriptions and procedures for patients
233 older than 18 years of age be prescribed,
234 administered, or performed only with the voluntary and
235 informed consent of the patient; providing criteria
236 for what constitutes voluntary and informed consent;
237 providing that only a physician may prescribe,
238 administer, or perform such prescriptions and
239 procedures; defining the term "physician"; providing
240 applicability; providing for disciplinary action;
241 providing criminal penalties; requiring the Board of
242 Medicine and the Board of Osteopathic Medicine to
243 adopt certain emergency rules; providing that such



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244 emergency rules remain in effect until they are
245 replaced by nonemergency rules; amending s. 456.074,
246 F.S.; requiring the department to immediately suspend
247 the license of a health care practitioner who is
248 arrested for committing or attempting, soliciting, or
249 conspiring to commit specified violations related to
250 sex-reassignment prescriptions or procedures for a
251 patient younger than 18 years of age; creating s.
252 766.318, F.S.; creating a cause of action to recover
253 damages for personal injury or death resulting from
254 the provision of sex-reassignment prescriptions or
255 procedures to a minor; providing that certain
256 limitations on punitive damages do not apply to such
257 actions; specifying the timeframe within which such
258 actions may be commenced; providing construction and
259 applicability; providing severability; providing a
260 directive to the Division of Law Revision;