

The Florida Senate  
**HOUSE MESSAGE SUMMARY**

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Prepared By: The Professional Staff of the Committee on Health Policy

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[2023s00254.hms.hp]

BILL: CS/SB 254, 1st Engrossed

INTRODUCER: Health Policy Committee and Senators Yarborough, Perry, and Broxson

SUBJECT: Treatments for Sex Reassignment

DATE: April 20, 2023

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**I. Amendments Contained in Message:**

**House Amendment 1 — 256341** (body with title)

**II. Summary of Amendments Contained in Message:**

**House amendment barcode 256341** seeks to replace virtually the entire contents of the Senate bill with the contents of CS/CS/HB 1421, with several exceptions, as described below. The House amendment has the following effects, sorted by subject matter:

- **Title of the Bill:** Maintains the Senate title of “an act relating to treatments for sex reassignment” while replacing the Senate bill’s use of the term “sex-reassignment prescriptions or procedures” with the House bill’s “gender clinical interventions” throughout the amendment. (For brevity, this summary refers to either concept as “treatments.”)
- **Child Custody:** Maintains the Senate bill’s provisions relating to child custody instead of the House bill’s similar provisions, except for the terminology as described in the bullet above.
- **Definition of Treatments:** Inserts the House bill’s definition of the treatments, which differs substantively from the Senate definition in that the House language does not exclude from the definition health care services that are provided due to imminent danger of death or impairment.
- **Public Expenditures:** Inserts the House bill’s language to prohibit “public expenditures” for the treatments, which differs from the Senate bill in that the House language prohibits specified entities, including the state and political subdivisions, private governmental contractors, and public postsecondary institutions, from expending “funds” for the treatments, whereas the Senate bill prohibits a similar list of entities from expending “state funds.”
- **Birth Certificates:** Inserts the House bill’s provisions relating to birth certificates, which the Senate bill does not include.
- **Facility/Office Attestations:** Omits the Senate bill’s requirement – which was not in the House bill – that any hospital, ambulatory surgical center, or physician’s office registered for the provision of office surgery, must provide a signed attestation to the Agency for Health Care Administration or the Department of Health (DOH), as applicable, that they do not offer or provide the treatments for children, unless a child qualifies for an exception, and also do not refer such patients to other providers for the treatments.

- **Treatments for Children:** Maintains the prohibition against providing the treatments for patients younger than 18 years old, as provided in both the House and Senate bills, but inserts the House bill's exception language, which differs significantly from the Senate's exception language:
  - The Senate bill provides that prescription treatment for a minor may continue if the treatment was commenced before, and is still active on, the bill's effective date, according to standards of practice to be adopted via emergency rules by the Board of Medicine (BOM) and Board of Osteopathic Medicine (BOOM) within 60 days after the date the bill takes effect.
  - The House amendment differs by providing that prescription treatment for a minor may continue – solely for the purpose of gradual discontinuation – only if the treatment began before January 1 of this year, the minor continuously received such treatment through July 1 of this year, and the treatment is concluded no later than December 31 of this year.
- **Physicians Only:** Maintains the requirement in both bills that the treatments may be provided only by licensed allopathic or osteopathic physicians.
- **Physician's Physical Presence:** Inserts the House bill's requirement for a physician to be physically present in the same room as an adult patient when obtaining informed consent, each time the physician provides the treatments. This differs from the Senate bill, which also requires the physician to be physically present in the same room when obtaining informed consent, but goes on to provide that the in-person requirement does not apply to renewals of prescription treatments if the physician and patient have previously met the bill's consent requirements for the initial prescription or initial renewal of that prescription.
- **Financial Responsibility:** Inserts the House bill's requirement – which is not in the Senate bill – for physicians who provide the treatments for adults to obtain and maintain financial responsibility, in the form of professional liability coverage, to pay claims and costs arising out of the rendering of such treatments, in the amounts required under the M.D. and D.O. practice acts, without the ability to “go bare” and practice without some form of financial responsibility.
- **Emergency Rules:** Maintains the requirement in both bills for the BOM and BOOM to adopt emergency rules to implement each bill's parameters under which physicians may provide the treatments, but omits the Senate bill's requirement for the BOM and BOOM to develop and adopt standards of practice via emergency rule for prescription treatment of minors who are grandfathered-in within 60 days after the bill's effective date.
- **Immunity:** Adopts the Senate position by omitting the House bill's provision – which the Senate bill also omits – for a person to have immunity from liability for refusing to participate in providing the treatments and that such refusal may not form the basis for disciplinary action.
- **Misdemeanor:** Partially adopts the Senate bill's creation of a 1<sup>st</sup>-degree misdemeanor for a health care practitioner who provides the treatments to an adult outside of the bill's requirements, but applies this provision only to a practitioner who willfully or actively participates in a physician's violation of the bill's requirements for obtaining informed consent.
- **Licensure Revocation:** Inserts the House bill's requirement – which is not in the Senate bill – for a health care practitioner regulatory board, or the DOH if there is no board, to revoke a practitioner's license if he or she is determined to have violated the bill's prohibitions or requirements relating to providing the treatments.

- **Health Insurance/HMO Coverage:** Inserts the House bill's provision – which is not in the Senate bill – to prohibit health insurance policies and HMO contracts from providing coverage for the treatments, regardless of the patient's age.
- **Cause of Action:** Inserts a slightly modified version of the House language to create a new cause of action relating to providing the treatments, which differs significantly from the Senate bill's cause of action:
  - The Senate bill creates a cause of action to recover damages for personal injury or death resulting from providing the treatments to a minor if such treatments are prohibited under the bill, in addition to any other remedy authorized by law; waives limits on punitive damages; creates a 20-year statute of limitations after completion or cessation of the treatments; and excludes treatments from being subject to the new cause of action if they were lawful when provided.
  - The House amendment provides that:
    - A physician who renders the treatments to a patient is liable to the individual for any physical, psychological, emotional, or physiological injury resulting from the treatments;
    - A patient who receives the treatments from a physician may bring a civil action for declaratory or injunctive relief; economic damages; noneconomic damages, punitive damages (without limits on punitive damages); and attorney fees and costs;
    - The estate of a patient who received the treatments from a physician, including a legal guardian on behalf of such individual, when the death of the patient was caused by the treatments, may bring a civil action against such physician for the same remedies listed above, as well as specified medical malpractice remedies, plus treble damages; and
    - An action brought under these provisions for non-lethal injuries must be brought within 20 years after the treatments, while an action for death must be brought within five years of the death or the discovery of the death, whichever is later. (This represents the slight modification referenced above, in that the House bill provided a 30-year statute of limitations for an action relating to non-lethal injuries.)
- **Severability:** Adopts the Senate bill's severability clause.
- **Effective Date:** Adopts the Senate bill's effective date, which is upon the bill becoming a law, instead of the House bill's effective date, which was July 1, 2023.