

By Senator Yarborough

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1 A bill to be entitled
2 An act relating to treatments for sex reassignment;
3 amending s. 61.517, F.S.; granting courts of this
4 state temporary emergency jurisdiction over children
5 present in this state if they are at risk of or are
6 being subjected to the provision of sex-reassignment
7 prescriptions or procedures; amending s. 61.520, F.S.;
8 requiring the court to consider certain information
9 when determining whether the court of another
10 jurisdiction is the more appropriate or convenient
11 forum for child custody determination proceedings;
12 amending s. 61.521, F.S.; requiring courts to consider
13 specified conduct as unjustifiable for purposes of
14 determining jurisdiction in certain proceedings;
15 prohibiting the court from treating a parent's removal
16 of a child from another parent or from another state
17 as unjustifiable conduct under certain circumstances;
18 amending s. 61.534, F.S.; defining the term "serious
19 physical harm" for purposes of warrants to take
20 physical custody of a child in certain child custody
21 enforcement proceedings; amending s. 61.536, F.S.;
22 providing that the courts of this state have
23 jurisdiction to vacate, stay, or modify child custody
24 determinations made by a court of another state under
25 certain circumstances; requiring that a court do so to
26 the extent necessary to protect the child from certain
27 conduct; creating s. 381.0027, F.S.; prohibiting
28 certain public entities from expending funds for the
29 provision of sex-reassignment prescriptions or

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30 procedures; amending s. 395.003, F.S.; requiring
31 certain licensed facilities, by a specified date and
32 as a condition of licensure thereafter, to provide a
33 signed attestation of specified information to the
34 Agency for Health Care Administration; requiring the
35 agency to revoke a facility's license for failure to
36 provide such attestation, subject to the due process
37 procedures of ch. 120, F.S.; amending s. 456.001,
38 F.S.; defining the terms "sex" and "sex-reassignment
39 prescriptions or procedures"; creating s. 456.52,
40 F.S.; prohibiting sex-reassignment prescriptions and
41 procedures for patients younger than 18 years of age;
42 providing an exception; requiring the Board of
43 Medicine and the Board of Osteopathic Medicine to
44 adopt certain emergency rules; requiring that such
45 prescriptions and procedures for patients older than
46 18 years of age be prescribed, administered, or
47 performed only with the voluntary and informed consent
48 of the patient; providing criteria for what
49 constitutes voluntary and informed consent; providing
50 that only a physician may prescribe, administer, or
51 perform such prescriptions and procedures; defining
52 the term "physician"; providing applicability;
53 providing for disciplinary action; providing criminal
54 penalties; requiring the Department of Health to adopt
55 certain emergency rules; providing that such emergency
56 rules remain in effect until they are replaced by
57 nonemergency rules; amending s. 456.074, F.S.;

58 requiring the department to immediately suspend the

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59 license of a health care practitioner who is arrested
60 for committing or attempting, soliciting, or
61 conspiring to commit specified violations related to
62 sex-reassignment prescriptions or procedures for a
63 patient younger than 18 years of age; amending ss.
64 458.328 and 459.0138, F.S.; requiring registered
65 physicians' offices to provide a signed attestation of
66 specified information to the department by a specified
67 date; beginning on a specified date, requiring
68 physicians' offices seeking such registration to
69 provide the signed attestation as a condition of
70 registration; providing grounds for disciplinary
71 action; providing severability; providing a directive
72 to the Division of Law Revision; providing an
73 effective date.

74

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

76

77 Section 1. Subsection (1) of section 61.517, Florida
78 Statutes, is amended to read:

79 61.517 Temporary emergency jurisdiction.—

80 (1) A court of this state has temporary emergency
81 jurisdiction if the child is present in this state and the child
82 has been abandoned or it is necessary in an emergency to protect
83 the child because the child, or a sibling or parent of the
84 child, is subjected to or threatened with mistreatment or abuse
85 or is at risk of or is being subjected to the provision of sex-
86 reassignment prescriptions or procedures as defined in s.
87 456.001.

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88 Section 2. Subsection (2) of section 61.520, Florida
89 Statutes, is amended to read:

90 61.520 Inconvenient forum.—

91 (2) Before determining whether it is an inconvenient forum,
92 a court of this state shall consider whether it is appropriate
93 for a court of another state to exercise jurisdiction. For this
94 purpose, the court shall allow the parties to submit information
95 and shall consider all relevant factors, including:

96 (a) Whether domestic violence has occurred and is likely to
97 continue in the future and which state could best protect the
98 parties and the child;

99 (b) The length of time the child has resided outside this
100 state;

101 (c) The distance between the court in this state and the
102 court in the state that would assume jurisdiction;

103 (d) The relative financial circumstances of the parties;

104 (e) Any agreement of the parties as to which state should
105 assume jurisdiction;

106 (f) The nature and location of the evidence required to
107 resolve the pending litigation, including testimony of the
108 child;

109 (g) The ability of the court of each state to decide the
110 issue expeditiously and the procedures necessary to present the
111 evidence; ~~and~~

112 (h) The familiarity of the court of each state with the
113 facts and issues in the pending litigation; and

114 (i) Whether there is reason to believe that one of the
115 parties is subjecting or is likely to subject the child to the
116 provision of sex-reassignment prescriptions or procedures as

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117 defined in s. 456.001.

118 Section 3. Subsection (4) is added to section 61.521,
119 Florida Statutes, to read:

120 61.521 Jurisdiction declined by reason of conduct.—

121 (4) (a) A court of this state shall treat as unjustifiable
122 conduct subjecting or attempting to subject a child to the
123 provision of sex-reassignment prescriptions or procedures as
124 defined in s. 456.001.

125 (b) A court may not treat a parent's removal of a child
126 from another parent or from another state as unjustifiable
127 conduct or child abuse if the removal was for the purpose of
128 protecting the child from one or more of the prescriptions or
129 procedures referenced in paragraph (a) and if there is reason to
130 believe that the child was at risk of or was being subjected to
131 the provision of such prescriptions or procedures.

132 Section 4. Subsection (1) of section 61.534, Florida
133 Statutes, is amended to read:

134 61.534 Warrant to take physical custody of child.—

135 (1) (a) Upon the filing of a petition seeking enforcement of
136 a child custody determination, the petitioner may file a
137 verified application for the issuance of a warrant to take
138 physical custody of the child if the child is likely to
139 imminently suffer serious physical harm or removal from this
140 state.

141 (b) As used in this subsection, the term "serious physical
142 harm" includes the provision of sex-reassignment prescriptions
143 or procedures as defined in s. 456.001.

144 Section 5. Section 61.536, Florida Statutes, is amended to
145 read:

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146 61.536 Recognition and enforcement.—

147 (1) A court of this state shall accord full faith and
148 credit to an order issued by another state and consistent with
149 this part which enforces a child custody determination by a
150 court of another state unless the order has been vacated,
151 stayed, or modified by a court having jurisdiction to do so
152 under ss. 61.514-61.523.

153 (2) A court of this state has jurisdiction to vacate, stay,
154 or modify a child custody determination of a court of another
155 state to protect the child from the risk of being subjected to
156 the provision of sex-reassignment prescriptions or procedures as
157 defined in s. 456.001. The court must vacate, stay, or modify
158 the child custody determination to the extent necessary to
159 protect the child from the provision of such prescriptions or
160 procedures.

161 Section 6. Section 381.0027, Florida Statutes, is created
162 to read:

163 381.0027 Prohibition of expenditure of public funds for
164 sex-reassignment prescriptions and procedures.—A state agency,
165 the state group health insurance program, a local governmental
166 entity, a managing entity as defined in s. 394.9082, or a
167 managed care plan providing services under part IV of chapter
168 409 may not expend funds for sex-reassignment prescriptions or
169 procedures as defined in s. 456.001.

170 Section 7. Present subsections (6) through (10) of section
171 395.003, Florida Statutes, are redesignated as subsections (7)
172 through (11), respectively, a new subsection (6) is added to
173 that section, and present subsections (9) and (10) of that
174 section are amended, to read:

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175 395.003 Licensure; denial, suspension, and revocation.—

176 (6) By July 1, 2023, each licensed facility must provide a
177 signed attestation to the agency stating that the facility does
178 not offer or provide sex-reassignment prescriptions or
179 procedures, as defined in s. 456.001, to patients younger than
180 18 years of age, unless authorized under s. 456.52(1)(b), and
181 does not refer such patients to other providers for such
182 services. Beginning July 1, 2023, each licensed facility shall
183 provide the signed attestation to the agency upon initial
184 licensure and as a requirement for each licensure renewal. Under
185 the due process requirements provided in chapter 120, the agency
186 must revoke the license of any licensed facility that fails to
187 provide the attestation required by this subsection.

188 (10)~~(9)~~ A hospital licensed as of June 1, 2004, shall be
189 exempt from subsection (9) ~~(8)~~ as long as the hospital maintains
190 the same ownership, facility street address, and range of
191 services that were in existence on June 1, 2004. Any transfer of
192 beds, or other agreements that result in the establishment of a
193 hospital or hospital services within the intent of this section,
194 shall be subject to subsection (9) ~~(8)~~. Unless the hospital is
195 otherwise exempt under subsection (9) ~~(8)~~, the agency shall deny
196 or revoke the license of a hospital that violates any of the
197 criteria set forth in that subsection.

198 (11)~~(10)~~ The agency may adopt rules implementing the
199 licensure requirements set forth in subsection (9) ~~(8)~~. Within
200 14 days after rendering its decision on a license application or
201 revocation, the agency shall publish its proposed decision in
202 the Florida Administrative Register. Within 21 days after
203 publication of the agency's decision, any authorized person may

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204 file a request for an administrative hearing. In administrative
205 proceedings challenging the approval, denial, or revocation of a
206 license pursuant to subsection (9) ~~(8)~~, the hearing must be
207 based on the facts and law existing at the time of the agency's
208 proposed agency action. Existing hospitals may initiate or
209 intervene in an administrative hearing to approve, deny, or
210 revoke licensure under subsection (9) ~~(8)~~ based upon a showing
211 that an established program will be substantially affected by
212 the issuance or renewal of a license to a hospital within the
213 same district or service area.

214 Section 8. Subsections (8) and (9) are added to section
215 456.001, Florida Statutes, to read:

216 456.001 Definitions.—As used in this chapter, the term:

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

222 (9) (a) "Sex-reassignment prescriptions or procedures"
223 means:

224 1. The prescription or administration of puberty blockers
225 for the purpose of attempting to stop or delay normal puberty in
226 order to affirm a person's perception of his or her sex if that
227 perception is inconsistent with the person's sex as defined in
228 subsection (8).

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

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

237 (b) The term does not include:

238 1. Prescriptions or procedures for individuals born with a
239 genetically or biochemically verifiable disorder of sex
240 development (DSD), including, but not limited to, 46, XX DSD;
241 46, XY DSD; sex chromosome DSDs; XX or XY sex reversal; and
242 ovotesticular disorder.

243 2. Prescriptions or procedures to treat an infection, an
244 injury, a disease, or a disorder that has been caused or
245 exacerbated by the performance of any sex-reassignment
246 prescription or procedure, regardless of whether such
247 prescription or procedure was performed in accordance with state
248 or federal law or whether such prescription or procedure is
249 covered by the private rights of action under ss. 766.102 and
250 768.042.

251 3. Prescriptions or procedures provided to a patient for
252 the treatment of a physical disorder, physical injury, or
253 physical illness that would, as certified by a physician
254 licensed under chapter 458 or chapter 459, place the individual
255 in imminent danger of death or impairment of a major bodily
256 function without the prescription or procedure.

257 Section 9. Section 456.52, Florida Statutes, is created to
258 read:

259 456.52 Sex-reassignment prescriptions and procedures;
260 prohibitions; informed consent.-

261 (1) Sex-reassignment prescriptions and procedures are

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262 prohibited for patients younger than 18 years of age, except
263 that:

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

271 (b) A patient meeting the criteria of paragraph (a) may
272 continue to be treated by a physician with such prescriptions
273 according to rules adopted under paragraph (a) or nonemergency
274 rules adopted under paragraph (6) (b).

275 (2) If sex-reassignment prescriptions or procedures are
276 prescribed for or administered or performed on patients 18 years
277 of age or older, consent must be voluntary, informed, and in
278 writing on forms approved by the department. Consent to sex-
279 reassignment prescriptions or procedures is voluntary and
280 informed only if the physician who is to prescribe or administer
281 the pharmaceutical product or perform the procedure has, at a
282 minimum, while physically present in the same room:

283 (a) Informed the patient of the nature and risks of the
284 prescription or procedure in order for the patient to make a
285 prudent decision;

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

288 (c) Received the patient's written acknowledgment, before
289 the prescription or procedure is prescribed, administered, or
290 performed, that the information required to be provided under

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291 this subsection has been provided.

292 (3) Sex-reassignment prescriptions or procedures may not be
293 prescribed, administered, or performed except by a physician.

294 For the purposes of this section, the term "physician" is
295 defined as a physician licensed under chapter 458 or chapter 459
296 or a physician practicing medicine or osteopathic medicine in
297 the employment of the Federal Government.

298 (4) Consent required under subsection (2) does not apply to
299 renewals of prescriptions consistent with those referenced under
300 s. 456.001(9) (a)1. and 2. if a physician and his or her patient
301 have met the requirements for consent for the initial
302 prescription or renewal. However, separate consent is required
303 for any new prescription for a pharmaceutical product not
304 previously prescribed to the patient.

305 (5) (a) Violation of this section constitutes grounds for
306 disciplinary action under this chapter and chapter 458 or
307 chapter 459, as applicable.

308 (b) Any person, other than the patient, who willfully or
309 actively participates in a violation of subsection (1) commits a
310 felony of the third degree, punishable as provided in s.
311 775.082, s. 775.083, or s. 775.084.

312 (c) Any person, other than the patient, who violates
313 subsection (2), subsection (3), or subsection (4) commits a
314 misdemeanor of the first degree, punishable as provided in s.
315 775.082 or s. 775.083.

316 (6) (a) The department shall adopt emergency rules to
317 implement this section.

318 (b) Any emergency rules adopted under this section are
319 exempt from s. 120.54(4) (c) and shall remain in effect until

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320 replaced by rules adopted under the nonemergency rulemaking
321 procedures of the Administrative Procedure Act.

322 Section 10. Present paragraphs (c) through (gg) of
323 subsection (5) of section 456.074, Florida Statutes, are
324 redesignated as paragraphs (d) through (hh), respectively, and a
325 new paragraph (c) is added to that subsection, to read:

326 456.074 Certain health care practitioners; immediate
327 suspension of license.—

328 (5) The department shall issue an emergency order
329 suspending the license of any health care practitioner who is
330 arrested for committing or attempting, soliciting, or conspiring
331 to commit any act that would constitute a violation of any of
332 the following criminal offenses in this state or similar
333 offenses in another jurisdiction:

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

337 Section 11. Paragraph (c) of subsection (1) of section
338 458.328, Florida Statutes, is amended to read:

339 458.328 Office surgeries.—

340 (1) REGISTRATION.—

341 (c) Each of the following is ~~As~~ a condition of
342 registration:—

343 1. An ~~each~~ office must establish financial responsibility
344 by demonstrating that it has met and continues to maintain, at a
345 minimum, the same requirements applicable to physicians in ss.
346 458.320 and 459.0085.

347 2. Each physician practicing at an office registered under
348 this section or s. 459.0138 must meet the financial

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349 responsibility requirements under s. 458.320 or s. 459.0085, as
350 applicable.

351 3. By July 1, 2023, each office registered under this
352 section must provide a signed attestation to the department
353 stating that the office does not offer or provide sex-
354 reassignment prescriptions or procedures, as defined in s.
355 456.001, to patients younger than 18 years of age, unless
356 authorized under s. 456.52(1)(b), and does not refer such
357 patients to other providers for such services. Beginning July 1,
358 2023, any office seeking registration must provide such signed
359 attestation to the department. An office's failure to provide
360 the signed attestation is grounds for denial of registration or
361 the suspension or revocation of registration under paragraph
362 (f).

363 Section 12. Paragraph (c) of subsection (1) of section
364 459.0138, Florida Statutes, is amended to read:

365 459.0138 Office surgeries.—

366 (1) REGISTRATION.—

367 (c) Each of the following is ~~As~~ a condition of
368 registration:—

369 1. An ~~each~~ office must establish financial responsibility
370 by demonstrating that it has met and continues to maintain, at a
371 minimum, the same requirements applicable to physicians in ss.
372 458.320 and 459.0085.

373 2. Each physician practicing at an office registered under
374 this section or s. 458.328 must meet the financial
375 responsibility requirements under s. 458.320 or s. 459.0085, as
376 applicable.

377 3. By July 1, 2023, each office registered under this

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378 section must provide a signed attestation to the department
379 stating that the office does not offer or provide sex-
380 reassignment prescriptions or procedures, as defined in s.
381 456.001, to patients younger than 18 years of age , unless
382 authorized under s. 456.52(1)(b), and does not refer such
383 patients to other providers for such services. Beginning July 1,
384 2023, any office seeking registration must provide such signed
385 attestation to the department. An office's failure to provide
386 the signed attestation is grounds for denial of registration or
387 the suspension or revocation of registration under paragraph
388 (f).

389 Section 13. If any provision of this act or its application
390 to any person or circumstance is held invalid, the invalidity
391 does not affect other provisions or applications of this act
392 which can be given effect without the invalid provision or
393 application, and to this end the provisions of this act are
394 severable.

395 Section 14. The Division of Law Revision is directed to
396 replace the phrase "the effective date of this act" wherever it
397 occurs in this act with the date the act becomes a law.

398 Section 15. This act shall take effect upon becoming a law.