

By the Committee on Health Policy; and Senators Yarborough,
Perry, and Broxson

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1 A bill to be entitled
2 An act relating to treatments for sex reassignment;
3 creating s. 61.5175, F.S.; granting courts of this
4 state jurisdiction to enter, modify, or stay a child
5 custody determination relating to a child present in
6 this state to the extent necessary to protect the
7 child from being subjected to sex-reassignment
8 prescriptions or procedures in another state; creating
9 s. 286.31, F.S.; defining the term "governmental
10 entity"; prohibiting certain public entities from
11 expending state funds for the provision of sex-
12 reassignment prescriptions or procedures; amending s.
13 395.003, F.S.; requiring certain licensed facilities,
14 by a specified date and as a condition of licensure
15 thereafter, to provide a signed attestation of
16 specified information to the Agency for Health Care
17 Administration; requiring the agency to revoke a
18 facility's license for failure to provide such
19 attestation, subject to the due process procedures of
20 ch. 120, F.S.; amending s. 456.001, F.S.; defining the
21 terms "sex" and "sex-reassignment prescriptions or
22 procedures"; creating s. 456.52, F.S.; prohibiting
23 sex-reassignment prescriptions and procedures for
24 patients younger than 18 years of age; providing an
25 exception; requiring the Board of Medicine and the
26 Board of Osteopathic Medicine to adopt certain
27 emergency rules; requiring that such prescriptions and
28 procedures for patients older than 18 years of age be
29 prescribed, administered, or performed only with the

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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.

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. Section 61.5175, Florida Statutes, is created to
60 read:

61 61.5175 Protection of children from sex-reassignment
62 prescriptions or procedures.—Notwithstanding any other provision
63 of this part, a court of this state has jurisdiction to enter,
64 modify, or stay a child custody determination relating to a
65 child who is present in this state to the extent necessary to
66 protect the child from being subjected to sex-reassignment
67 prescriptions or procedures, as defined in s. 456.001, in
68 another state.

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

71 286.31 Prohibited use of state funds.—

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

78 (2) A governmental entity, the state group health insurance
79 program, a managing entity as defined in s. 394.9082, or a
80 managed care plan providing services under part IV of chapter
81 409 may not expend state funds as described in s. 215.31 for
82 sex-reassignment prescriptions or procedures as defined in s.
83 456.001.

84 Section 3. Present subsections (6) through (10) of section
85 395.003, Florida Statutes, are redesignated as subsections (7)
86 through (11), respectively, a new subsection (6) is added to
87 that section, and present subsections (9) and (10) of that

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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
116 the Florida Administrative Register. Within 21 days after

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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
145 her sex if that perception is inconsistent with the person's sex

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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
174 in imminent danger of death or impairment of a major bodily

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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
203 prescription or procedure in order for the patient to make a

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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
232 (2), subsection (3), or subsection (4) commits a misdemeanor of

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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
261 registration:7

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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:—

288 1. An ~~each~~ office must establish financial responsibility
289 by demonstrating that it has met and continues to maintain, at a
290 minimum, the same requirements applicable to physicians in ss.

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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.