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

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

395.003 Licensure; denial, suspension, and revocation.—

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

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

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



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

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

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

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

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

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

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



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

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

(b) The term does not include:

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

a. External biological sex characteristics that are unresolvably ambiguous.

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

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

3. Prescriptions or procedures provided to a patient for the treatment of a physical disorder, physical injury, or physical illness that would, as certified by a physician 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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prescription or procedure in order for the patient to make a
prudent decision;

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

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

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

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

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

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

(c) Any health care practitioner who violates subsection



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

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

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

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

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

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

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

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

458.328 Office surgeries.—

(1) REGISTRATION.—

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



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registration:~~r~~

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

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

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

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

459.0138 Office surgeries.—

(1) REGISTRATION.—

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

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



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

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

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

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

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

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