

ENROLLED
2023 Legislature

CS for SB 254, 2nd Engrossed

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1
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 a child
5 present in this state if the child has been subjected
6 to or is threatened with being subjected to sex-
7 reassignment prescriptions or procedures; amending s.
8 61.534, F.S.; providing that, for purposes of warrants
9 to take physical custody of a child in certain child
10 custody enforcement proceedings, serious physical harm
11 to the child includes, but is not limited to, being
12 subjected to sex-reassignment prescriptions or
13 procedures; creating s. 286.31, F.S.; defining the
14 term "governmental entity"; prohibiting certain public
15 entities from expending state funds for the provision
16 of sex-reassignment prescriptions or procedures;
17 amending s. 456.001, F.S.; defining the terms "sex"
18 and "sex-reassignment prescriptions or procedures";
19 creating s. 456.52, F.S.; prohibiting sex-reassignment
20 prescriptions and procedures for patients younger than
21 18 years of age; providing an exception; requiring the
22 Board of Medicine and the Board of Osteopathic
23 Medicine to adopt certain emergency rules within a
24 specified timeframe; requiring the boards to consider
25 specified factors in developing such rules; requiring
26 that such prescriptions and procedures for patients
27 older than 18 years of age be prescribed,
28 administered, or performed only with the voluntary and
29 informed consent of the patient; providing criteria

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 for what constitutes voluntary and informed consent;
31 providing that only a physician may prescribe,
32 administer, or perform such prescriptions and
33 procedures; defining the term "physician"; providing
34 applicability; providing for disciplinary action;
35 providing criminal penalties; requiring the Board of
36 Medicine and the Board of Osteopathic Medicine to
37 adopt certain emergency rules; providing that such
38 emergency rules remain in effect until they are
39 replaced by nonemergency rules; amending s. 456.074,
40 F.S.; requiring the department to immediately suspend
41 the license of a health care practitioner who is
42 arrested for committing or attempting, soliciting, or
43 conspiring to commit specified violations related to
44 sex-reassignment prescriptions or procedures for a
45 patient younger than 18 years of age; creating s.
46 766.318, F.S.; creating a cause of action to recover
47 damages for personal injury or death resulting from
48 the provision of sex-reassignment prescriptions or
49 procedures to a minor; providing that certain
50 limitations on punitive damages do not apply to such
51 actions; specifying the timeframe within which such
52 actions may be commenced; providing construction and
53 applicability; providing severability; providing a
54 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. Subsection (1) of section 61.517, Florida
60 Statutes, is amended to read:

61 61.517 Temporary emergency jurisdiction.—

62 (1) A court of this state has temporary emergency
63 jurisdiction if the child is present in this state and:

64 (a) The child has been abandoned; ~~or~~

65 (b) It is necessary in an emergency to protect the child
66 because the child, or a sibling or parent of the child, is
67 subjected to or threatened with mistreatment or abuse; or

68 (c) It is necessary in an emergency to protect the child
69 because the child has been subjected to or is threatened with
70 being subjected to sex-reassignment prescriptions or procedures,
71 as defined in s. 456.001.

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

74 61.534 Warrant to take physical custody of child.—

75 (1) Upon the filing of a petition seeking enforcement of a
76 child custody determination, the petitioner may file a verified
77 application for the issuance of a warrant to take physical
78 custody of the child if the child is likely to imminently suffer
79 serious physical harm or removal from this state. Serious
80 physical harm includes, but is not limited to, being subjected
81 to sex-reassignment prescriptions or procedures as defined in s.
82 456.001.

83 Section 3. Section 286.31, Florida Statutes, is created to
84 read:

85 286.31 Prohibited use of state funds.—

86 (1) As used in this section, the term "governmental entity"
87 means the state or any political subdivision thereof, including

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88 the executive, legislative, and judicial branches of government;
89 the independent establishments of the state, counties,
90 municipalities, districts, authorities, boards, or commissions;
91 and any agencies that are subject to chapter 286.

92 (2) A governmental entity, a public postsecondary
93 educational institution as described in s. 1000.04, the state
94 group health insurance program, a managing entity as defined in
95 s. 394.9082, or a managed care plan providing services under
96 part IV of chapter 409 may not expend state funds as described
97 in s. 215.31 for sex-reassignment prescriptions or procedures as
98 defined in s. 456.001.

99 Section 4. Subsections (8) and (9) are added to section
100 456.001, Florida Statutes, to read:

101 456.001 Definitions.—As used in this chapter, the term:

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

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

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

114 2. The prescription or administration of hormones or
115 hormone antagonists to affirm a person's perception of his or
116 her sex if that perception is inconsistent with the person's sex

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117 as defined in subsection (8).

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

122 (b) The term does not include:

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

128 a. External biological sex characteristics that are
129 unresolvably ambiguous.

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

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

141 3. Prescriptions or procedures provided to a patient for
142 the treatment of a physical disorder, physical injury, or
143 physical illness that would, as certified by a physician
144 licensed under chapter 458 or chapter 459, place the individual
145 in imminent danger of death or impairment of a major bodily

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146 function without the prescription or procedure.

147 Section 5. Section 456.52, Florida Statutes, is created to
148 read:

149 456.52 Sex-reassignment prescriptions and procedures;
150 prohibitions; informed consent.—

151 (1) Sex-reassignment prescriptions and procedures are
152 prohibited for patients younger than 18 years of age, except
153 that:

154 (a) The Board of Medicine and the Board of Osteopathic
155 Medicine shall, within 60 days after the effective date of this
156 act, adopt emergency rules pertaining to standards of practice
157 under which a patient younger than 18 years of age may continue
158 to be treated with a prescription consistent with those
159 referenced under s. 456.001(9)(a)1. or 2. if such treatment for
160 sex reassignment was commenced before, and is still active on,
161 the effective date of this act. In developing rules under this
162 paragraph, the boards shall consider requirements for physicians
163 to obtain informed consent from such patient's parent or legal
164 guardian, consistent with the parameters of informed consent
165 under subsections (2) and (4), for such prescription treatment,
166 and shall consider the provision of professional counseling
167 services for such patient by a board-certified psychiatrist
168 licensed under chapter 458 or chapter 459 or a psychologist
169 licensed under chapter 490 in conjunction with such prescription
170 treatment.

171 (b) A patient meeting the criteria of paragraph (a) may
172 continue to be treated by a physician with such prescriptions
173 according to rules adopted under paragraph (a) or nonemergency
174 rules adopted under paragraph (6)(b).

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175 (2) If sex-reassignment prescriptions or procedures are
176 prescribed for or administered or performed on patients 18 years
177 of age or older, consent must be voluntary, informed, and in
178 writing on forms adopted in rule by the Board of Medicine and
179 the Board of Osteopathic Medicine. Consent to sex-reassignment
180 prescriptions or procedures is voluntary and informed only if
181 the physician who is to prescribe or administer the
182 pharmaceutical product or perform the procedure has, at a
183 minimum, while physically present in the same room:

184 (a) Informed the patient of the nature and risks of the
185 prescription or procedure in order for the patient to make a
186 prudent decision;

187 (b) Provided the informed consent form, as adopted in rule
188 by the Board of Medicine and the Board of Osteopathic Medicine,
189 to the patient; and

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

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

200 (4) Consent required under subsection (2) does not apply to
201 renewals of prescriptions consistent with those referenced under
202 s. 456.001(9)(a)1. and 2. if a physician and his or her patient
203 have met the requirements for consent for the initial

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204 prescription or renewal. However, separate consent is required
205 for any new prescription for a pharmaceutical product not
206 previously prescribed to the patient.

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

210 (b) Any health care practitioner who willfully or actively
211 participates in a violation of subsection (1) commits a felony
212 of the third degree, punishable as provided in s. 775.082, s.
213 775.083, or s. 775.084.

214 (c) Any health care practitioner who violates subsection
215 (2), subsection (3), or subsection (4) commits a misdemeanor of
216 the first degree, punishable as provided in s. 775.082 or s.
217 775.083.

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

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

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

228 456.074 Certain health care practitioners; immediate
229 suspension of license.—

230 (5) The department shall issue an emergency order
231 suspending the license of any health care practitioner who is
232 arrested for committing or attempting, soliciting, or conspiring

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233 to commit any act that would constitute a violation of any of
234 the following criminal offenses in this state or similar
235 offenses in another jurisdiction:

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

239 Section 7. Section 766.318, Florida Statutes, is created to
240 read:

241 766.318 Civil liability for provision of sex-reassignment
242 prescriptions or procedures to minors.-

243 (1) A cause of action exists to recover damages for
244 personal injury or death resulting from the provision of sex-
245 reassignment prescriptions or procedures, as defined in s.
246 456.001, to a person younger than 18 years of age which are
247 prohibited by s. 456.52(1).

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

250 (3) An action brought under this section:

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

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

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

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

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

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262 Section 8. If any provision of this act or its application
263 to any person or circumstance is held invalid, the invalidity
264 does not affect other provisions or applications of this act
265 which can be given effect without the invalid provision or
266 application, and to this end the provisions of this act are
267 severable.

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

271 Section 10. This act shall take effect upon becoming a law.