The Committee on Criminal Justice (Book) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 383.61, Florida Statutes, is created to read:

383.61 Assisted reproduction facilities.—

(1) DEFINITIONS.—As used in this section, the term:

(a) “Assisted reproductive technology” means those procreative procedures which involve the laboratory handling of
human eggs, preembryos, or sperm, including, but not limited to, in vitro fertilization embryo transfer, gamete intrafallopian transfer, pronuclear stage transfer, tubal embryo transfer, and zygote intrafallopian transfer.

 (b) “Commissioning party” means the intended parent or parents of a child who will be conceived by means of assisted reproductive technology.

 (c) "Donor" means a person who donates reproductive material, regardless of whether for personal use or compensation.

 (d) "Donor bank" means any facility that collects reproductive material from donors for use by a fertility clinic.

 (e) "Egg" means the unfertilized female reproductive cell.

 (f) "Fertility clinic" means a facility in which reproductive materials are subject to assisted reproductive technology for the purpose of implantation.

 (g) "Health care practitioner" has the same meaning as provided in s. 456.001.

 (h) "Preembryo" means the product of fertilization of an egg by a sperm until the appearance of the embryonic axis.

 (i) "Recipient" means a person who receives, through implantation, reproductive material from a donor.

 (j) "Reproductive material" means any human “egg,” “preembryo,” or “sperm.”

 (k) "Sperm" means the male reproductive cell.

 (2)(a) CONTRACT REQUIREMENTS.—A commissioning party or donor must enter into a contract with the donor bank, fertility clinic, or health care practitioner before he or she may make a donation of reproductive material. The contract must, at
minimum, indicate what must be done with the reproductive material if:

1. The donor dies or becomes incapacitated;
2. A designated recipient for the donation dies or becomes incapacitated;
3. The commissioning party separate or their marriage is dissolved;
4. One member of the commissioning party dies or becomes incapacitated;
5. The reproductive material is unused, including whether it may be disposed of, offered to a different recipient, or donated to science; and
6. Any other unforeseen circumstance occurs.

(b) The donor bank, fertility clinic, or health care practitioner must ensure that each donation is clearly labeled according to the terms of each donor or commissioning party's contract.

(c) The donor bank, fertility clinic, or health care practitioner must ensure that the donation is implanted, returned, disposed of, or stored according to the terms of the contract.

(3) BEST PRACTICE POLICIES.—

(a) By January 1, 2021, each donor bank, fertility clinic and health care practitioner that provides assisted reproductive technology in this state, shall develop a written best practices policy consistent with 42 U.S.C. part 263a(f).

(b) The best practices policy must be submitted to the appropriate licensing agency or department annually for review.

(c) All reproductive material stored by a donor bank,
fertility clinic, or health care practitioner must be clearly labeled.

(d) A donor bank, fertility clinic, or health care practitioner must comply with the terms of the contract, pursuant to subsection (2).

(e) A donor bank, fertility clinic, or health care practitioner must maintain all records for at least 30 years.

(f) A health care practitioner may not implant or inseminate a recipient or cause a recipient to be implanted or inseminated with reproductive material of the health care practitioner.

(4) INSPECTIONS.—The Agency for Health Care Administration shall perform annual inspections of donor banks and fertility clinics without notice.

(5) PENALTIES.—A donor bank or fertility clinic in violation of subsections (2) or (3) of this section are subject to penalties provided in s. 400.995.

Section 2. Paragraph (pp) and paragraph (qq) are added to subsection (1) of section 456.072, Florida Statutes, to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(pp) Intentionally implanting or inseminating a recipient or causing a recipient to be implanted or inseminated with the reproductive material, as defined in s. 383.61, of a donor without the recipient’s consent.

(qq) A violation of s. 383.61.

Section 3. Section 456.51, Florida Statutes, is created to
read:

456.51 Health care practitioners; consent for pelvic examinations.—

(1) As used in this section, the term “pelvic examination” means the direct palpation of the organs of the female internal reproductive system.

(2) A health care practitioner may not perform a pelvic examination on a patient without the written consent of the patient or the patient’s legal representative executed specific to, and expressly identifying, the pelvic examination, unless:

(a) A court orders performance of the pelvic examination for the collection of evidence; or

(b) The pelvic examination is immediately necessary to avert a serious risk of imminent substantial and irreversible physical impairment of a major bodily function of the patient.

Section 4. Paragraph (ww) and paragraph (xx) are added to subsection (1) of section 458.331, Florida Statutes, to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(ww) Intentionally implanting or inseminating a recipient or causing a recipient to be implanted or inseminated with the reproductive material, as defined in s. 383.61, of a donor without the recipient’s consent.

(xx) A violation of s. 383.61.

Section 5. Paragraph (yy) and paragraph (zz) are added to subsection (1) of section 459.015, Florida Statutes, to read:

459.015 Grounds for disciplinary action; action by the
board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(yy) Intentionally implanting or inseminating a recipient or causing a recipient to be implanted or inseminated with the reproductive material, as defined in s. 383.61, of a donor without the recipient’s consent.

(zz) A violation of s. 383.61.

Section 6. Section 784.086, Florida Statutes, is created to read:

784.086 Reproductive battery.—

(1) As used in this section, the term:

(a) “Donor” has the same meaning as provided in s. 383.61.

(b) “Health care practitioner” has the same meaning as provided in s. 456.001.

(c) “Recipient” has the same meaning as provided in s. 383.61.

(d) “Reproductive material” has the same meaning as provided in s. 383.61.

(2) A health care practitioner may not intentionally penetrate the vagina of a recipient with the reproductive material of a donor or any object containing the reproductive material of a donor, knowing the recipient has not consented to the use of the reproductive material from that donor.

(a) A health care practitioner who violates this section commits reproductive battery, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A health care practitioner who violates this section and is the donor of the reproductive material commits a felony...
of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Notwithstanding any other provision of law, the period of limitation for a violation under this section does not begin to run until the date on which the violation is discovered and reported to law enforcement or any other governmental agency.

(4) It is not a defense to the crime of reproductive battery that the recipient consented to an anonymous donor.

Section 8. This act shall take effect July 1, 2020.

================= T I T L E A M E N D M E N T =================
And the title is amended as follows:
Delete everything before the enacting clause and insert:

A bill to be entitled An act relating to reproductive health; creating s. 383.61, F.S.; defining terms; requiring a commissioning party or donor to enter into a contract; providing requirements for the contract; requiring donor banks, fertility clinics and health care practitioners, to develop, by a specified date, a written best practices policy consistent with 42 U.S.C. 263a(f); requiring the annual submission of such written policies; requiring labeling of reproductive material and contract compliance; requiring records retention; prohibiting a health care practitioner from implanting or inseminating a recipient with reproductive material of the health care practitioner; requiring annual inspections by the
Agency for Health Care Administration; providing that donor banks and fertility clinics are subject to penalties for noncompliance; amending s. 456.072; adding new grounds for discipline; creating s. 456.51, F.S.; defining the term "pelvic examination"; prohibiting a health care practitioner from performing a pelvic examination on a patient without first obtaining the written consent of the patient or the patient’s legal representative; providing exceptions; amending s. 458.331; adding new grounds for discipline; amending s. 459.015; adding new grounds for discipline; creating s. 784.086; creating the criminal offense of reproductive battery; providing criminal penalties; tolling the statute of limitations; providing applicability; providing an effective date.