

By Senator Book

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1 A bill to be entitled
2 An act relating to health care practitioner
3 discipline; amending s. 456.072, F.S.; subjecting
4 health care practitioners to disciplinary action for
5 specified offenses; amending s. 456.074, F.S.;
6 requiring the Department of Health to issue emergency
7 orders to suspend certain physicians' licenses if they
8 are arrested for committing or attempting, soliciting,
9 or conspiring to commit acts that would constitute
10 violations of specified criminal offenses involving a
11 child; requiring the Office of Program Policy Analysis
12 and Government Accountability (OPPAGA) to analyze
13 certain laws and rules and their application;
14 providing requirements for the analysis; requiring all
15 state agencies, upon OPPAGA's request, to assist
16 OPPAGA and provide requested information and data;
17 requiring OPPAGA to submit a report to the Governor
18 and the Legislature by a specified date; providing for
19 future repeal; providing an effective date.

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

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23 Section 1. Paragraph (rr) is added to subsection (1) of
24 section 456.072, Florida Statutes, to read:

25 456.072 Grounds for discipline; penalties; enforcement.—

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

29 (rr) Being convicted or found guilty of, entering a plea of

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30 guilty or nolo contendere to, regardless of adjudication, or
31 committing or attempting, soliciting, or conspiring to commit an
32 act that would constitute a violation of any of the offenses
33 listed in s. 456.074(5) or a similar offense in another
34 jurisdiction.

35 Section 2. Present subsection (5) of section 456.074,
36 Florida Statutes, is redesignated as subsection (6), and a new
37 subsection (5) is added to that section, to read:

38 456.074 Certain health care practitioners; immediate
39 suspension of license.—

40 (5) The department shall issue an emergency order
41 suspending the license of any physician licensed under chapter
42 458 or chapter 459 who is a pediatrician or who otherwise treats
43 children in his or her practice if the physician is arrested for
44 committing or attempting, soliciting, or conspiring to commit
45 any act that would constitute a violation of any of the
46 following criminal offenses involving a child in this state or
47 similar offenses in another jurisdiction:

48 (a) Section 393.135(2), relating to sexual misconduct
49 against an individual with a developmental disability.

50 (b) Section 394.4593(2), relating to sexual misconduct
51 against a patient of a receiving or treatment facility or
52 otherwise in the custody of the Department of Children and
53 Families.

54 (c) Section 787.01, relating to kidnapping.

55 (d) Section 787.02, relating to false imprisonment.

56 (e) Section 787.025(2), relating to luring or enticing a
57 child.

58 (f) Section 787.06(3)(b), (d), (f), or (g), relating to

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- 59 human trafficking for commercial sexual activity.
- 60 (g) Former s. 787.06(3)(h), relating to human trafficking
- 61 of a child under the age of 15 for commercial sexual activity.
- 62 (h) Section 787.07, relating to human smuggling.
- 63 (i) Section 794.011, relating to sexual battery, excluding
- 64 s. 794.011(10).
- 65 (j) Section 794.05, relating to unlawful sexual activity
- 66 with certain minors.
- 67 (k) Section 794.08, relating to female genital mutilation.
- 68 (l) Former s. 796.03, relating to procuring a person under
- 69 the age of 18 for prostitution.
- 70 (m) Former s. 796.035, relating to the selling or buying of
- 71 minors into prostitution.
- 72 (n) Section 796.04, relating to forcing, compelling, or
- 73 coercing another to become a prostitute.
- 74 (o) Section 796.05, relating to deriving support from the
- 75 proceeds of prostitution.
- 76 (p) Section 796.07(4)(a)3., relating to a felony of the
- 77 third degree for a third or subsequent violation of s. 796.07,
- 78 relating to prohibiting prostitution and related acts.
- 79 (q) Section 800.04, relating to lewd or lascivious offenses
- 80 committed upon or in the presence of persons younger than 16
- 81 years of age.
- 82 (r) Section 810.145(8), relating to video voyeurism of a
- 83 minor.
- 84 (s) Section 827.071, relating to sexual performance by a
- 85 child.
- 86 (t) Section 847.011, relating to prohibited acts in
- 87 connection with obscene, lewd, and other materials.

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88 (u) Section 847.012, relating to materials harmful to
89 minors.

90 (v) Section 847.013, relating to exposing minors to harmful
91 motion pictures, exhibitions, shows, presentations, or
92 representations.

93 (w) Section 847.0133, relating to the protection of minors
94 from obscene materials.

95 (x) Section 847.0135, relating to computer pornography,
96 prohibited computer usage, or traveling to meet minors,
97 excluding s. 847.0135(6).

98 (y) Section 847.0137, relating to transmission of child
99 pornography by electronic device or equipment.

100 (z) Section 847.0138, relating to the transmission of
101 material harmful to minors to a minor by electronic device or
102 equipment.

103 (aa) Section 847.0145, relating to the selling or buying of
104 minors.

105 (bb) Section 856.022, relating to loitering or prowling in
106 close proximity to children.

107 (cc) Section 895.03, relating to racketeering activity, if
108 the court makes a written finding that the racketeering activity
109 involved at least one sexual offense listed in this subsection
110 or at least one offense listed in this subsection which was
111 committed with sexual intent or motive.

112 (dd) Section 916.1075(2), relating to sexual misconduct
113 against a forensic client of a civil or forensic facility for
114 defendants who have a mental illness or an intellectual
115 disability.

116 (ee) Section 985.701(1), relating to sexual misconduct

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117 against a juvenile offender.

118 (ff) Any similar offense committed in this state which has
119 been redesignated from a former statute number to one of those
120 listed in this subsection.

121 Section 3. Health care practitioner study.-

122 (1) The Office of Program Policy Analysis and Government
123 Accountability (OPPAGA) shall analyze this state's laws and
124 rules relating to grounds for disciplinary actions against and
125 immediate suspension of health care practitioner licenses and
126 the application of such laws and rules, specifically with
127 respect to criminal offenses.

128 (2) In its analysis, OPPAGA shall do all of the following,
129 at a minimum:

130 (a) Identify all of the health care professions regulated
131 by the Department of Health and, for each health care
132 profession, indicate all sections of the Florida Statutes and
133 related rules that subject practitioners of that health care
134 profession to discipline or immediate suspension of licensure.

135 (b) For each health care profession, identify which
136 criminal offenses are specifically enumerated as grounds for
137 disciplinary action against or immediate suspension of the
138 health care practitioner's license. This information must
139 distinguish whether the department may take such action upon a
140 health care practitioner's arrest for the criminal offense or
141 conduct or only if the health care practitioner is found guilty
142 or convicted of or enters a plea of nolo contendere to the
143 criminal offense. OPPAGA shall also review the corresponding
144 disciplinary guidelines adopted by rule of the applicable board,
145 or the department if there is no board, for each health care

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146 profession.

147 (c) Compare all of the information obtained under paragraph
148 (b) and determine whether there are disparities between health
149 care professions as to which criminal offenses are grounds for
150 disciplinary action against or immediate suspension of licensure
151 and whether there are disparities between the corresponding
152 disciplinary guidelines adopted by the board or the department,
153 as applicable, for the different health care professions.

154 (d) Review historical disciplinary action data from the
155 department which includes all of the disciplinary actions taken
156 or immediate suspensions issued by the department for a health
157 care practitioner's arrest for, conviction of, or entering a
158 plea to a criminal offense, identifying the types of offenses
159 and details of the corresponding disciplinary action taken, if
160 any.

161 (e) To the extent possible, determine how many health care
162 practitioners in the past 10 years have been arrested for, been
163 convicted of, or have entered a plea to a criminal offense
164 enumerated in s. 456.074(5), Florida Statutes, as amended by
165 this act. OPPAGA may review such instances that occurred more
166 than 10 years ago if such information is available.

167 (f) For the health care practitioners identified in
168 paragraph (e), determine how many have had administrative
169 complaints filed or disciplinary action taken against their
170 license or have had their license immediately suspended by the
171 department for such arrest, conviction, or criminal plea, noting
172 the final disposition of their case with the department, if any.

173 (g) Compare all of the information obtained under this
174 subsection and determine if this state's current laws and rules

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175 relating to discipline and immediate suspension of health care
176 practitioner licenses are creating discrepancies relating to
177 health care practitioners who are arrested for, are convicted
178 of, or enter pleas to criminal offenses that pose a danger to
179 the health, safety, and welfare of the public but are not
180 subjected to disciplinary action or immediate suspension of
181 their licenses.

182 (3) Upon OPPAGA's request, all state agencies shall assist
183 in conducting its analysis and preparing its report under this
184 section, including, but not limited to, providing technical
185 assistance and any relevant information or data OPPAGA requests.

186 (4) OPPAGA shall submit a report of its findings to the
187 Governor, the President of the Senate, and the Speaker of the
188 House of Representatives by January 1, 2022.

189 (5) This section is repealed January 2, 2022.

190 Section 4. This act shall take effect July 1, 2021.