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1                   A bill to be entitled  
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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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.