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A bill to be entitled

An act relating to treatments for sex reassignment; amending s. 61.517, F.S.; granting courts of this state temporary emergency jurisdiction over a child present in this state if the child has been subjected to or is threatened with being subjected to sex-reassignment prescriptions or procedures; amending s. 61.534, F.S.; providing that, for purposes of warrants to take physical custody of a child in certain child custody enforcement proceedings, serious physical harm to the child includes, but is not limited to, being subjected to sex-reassignment prescriptions or procedures; 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

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Board of Osteopathic Medicine to adopt certain emergency rules within a specified timeframe; requiring that such prescriptions and procedures for patients older than 18 years of age be 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 Board of Medicine and the Board of Osteopathic Medicine 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

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59 action; creating s. 766.318, F.S.; creating a cause of
60 action to recover damages for personal injury or death
61 resulting from the provision of sex-reassignment
62 prescriptions or procedures to a minor; providing that
63 certain limitations on punitive damages do not apply
64 to such actions; specifying the timeframe within which
65 such actions may be commenced; providing construction
66 and applicability; providing severability; providing a
67 directive to the Division of Law Revision; providing
68 an effective date.

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

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72 Section 1. Subsection (1) of section 61.517, Florida
73 Statutes, is amended to read:

74 61.517 Temporary emergency jurisdiction.—

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

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

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

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

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

87 61.534 Warrant to take physical custody of child.—

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

Section 3. 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, a public postsecondary educational institution as described in s. 1000.04, 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 4. 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 that section, and present subsections (9) and (10) of that section are amended, to read:

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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 the Florida Administrative Register. Within 21 days after publication of the agency's decision, any authorized person may

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146 file a request for an administrative hearing. In administrative
147 proceedings challenging the approval, denial, or revocation of a
148 license pursuant to subsection (9) ~~(8)~~, the hearing must be
149 based on the facts and law existing at the time of the agency's
150 proposed agency action. Existing hospitals may initiate or
151 intervene in an administrative hearing to approve, deny, or
152 revoke licensure under subsection (9) ~~(8)~~ based upon a showing
153 that an established program will be substantially affected by
154 the issuance or renewal of a license to a hospital within the
155 same district or service area.

156 Section 5. Subsections (8) and (9) are added to section
157 456.001, Florida Statutes, to read:

158 456.001 Definitions.—As used in this chapter, the term:

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

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

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

171 2. The prescription or administration of hormones or
172 hormone antagonists to affirm a person's perception of his or
173 her sex if that perception is inconsistent with the person's sex
174 as defined in subsection (8).

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

179 (b) The term does not include:

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

185 a. External biological sex characteristics that are
186 unresolvably ambiguous.

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

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

198 3. Prescriptions or procedures provided to a patient for
199 the treatment of a physical disorder, physical injury, or
200 physical illness that would, as certified by a physician
201 licensed under chapter 458 or chapter 459, place the individual
202 in imminent danger of death or impairment of a major bodily
203 function without the prescription or procedure.

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204 Section 6. Section 456.52, Florida Statutes, is created to
205 read:

206 456.52 Sex-reassignment prescriptions and procedures;
207 prohibitions; informed consent.-

208 (1) Sex-reassignment prescriptions and procedures are
209 prohibited for patients younger than 18 years of age, except
210 that:

211 (a) The Board of Medicine and the Board of Osteopathic
212 Medicine shall, within 60 days after the effective date of this
213 act, adopt emergency rules pertaining to standards of practice
214 under which a patient younger than 18 years of age may continue
215 to be treated with a prescription consistent with those
216 referenced under s. 456.001(9)(a)1. or 2. if such treatment for
217 sex reassignment was commenced before, and is still active on,
218 the effective date of this act.

219 (b) A patient meeting the criteria of paragraph (a) may
220 continue to be treated by a physician with such prescriptions
221 according to rules adopted under paragraph (a) or nonemergency
222 rules adopted under paragraph (6)(b).

223 (2) If sex-reassignment prescriptions or procedures are
224 prescribed for or administered or performed on patients 18 years
225 of age or older, consent must be voluntary, informed, and in
226 writing on forms adopted in rule by the Board of Medicine and
227 the Board of Osteopathic Medicine. Consent to sex-reassignment
228 prescriptions or procedures is voluntary and informed only if
229 the physician who is to prescribe or administer the
230 pharmaceutical product or perform the procedure has, at a
231 minimum, while physically present in the same room:

232 (a) Informed the patient of the nature and risks of the

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233 prescription or procedure in order for the patient to make a
234 prudent decision;

235 (b) Provided the informed consent form, as adopted in rule
236 by the Board of Medicine and the Board of Osteopathic Medicine,
237 to the patient; and

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

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

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

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

258 (b) Any health care practitioner who willfully or actively
259 participates in a violation of subsection (1) commits a felony
260 of the third degree, punishable as provided in s. 775.082, s.
261 775.083, or s. 775.084.

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262 (c) Any health care practitioner who violates subsection
263 (2), subsection (3), or subsection (4) commits a misdemeanor of
264 the first degree, punishable as provided in s. 775.082 or s.
265 775.083.

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

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

272 Section 7. Present paragraphs (c) through (gg) of
273 subsection (5) of section 456.074, Florida Statutes, are
274 redesignated as paragraphs (d) through (hh), respectively, and a
275 new paragraph (c) is added to that subsection, to read:

276 456.074 Certain health care practitioners; immediate
277 suspension of license.—

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

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

287 Section 8. Paragraph (c) of subsection (1) of section
288 458.328, Florida Statutes, is amended to read:

289 458.328 Office surgeries.—

290 (1) REGISTRATION.—

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291 (c) Each of the following is ~~As~~ a condition of
292 registration:7

293 1. An each office must establish financial responsibility
294 by demonstrating that it has met and continues to maintain, at a
295 minimum, the same requirements applicable to physicians in ss.
296 458.320 and 459.0085.

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

301 3. By July 1, 2023, each office registered under this
302 section must provide a signed attestation to the department
303 stating that the office does not offer or provide sex-
304 reassignment prescriptions or procedures, as defined in s.
305 456.001, to patients younger than 18 years of age, unless
306 authorized under s. 456.52(1)(b), and does not refer such
307 patients to other providers for such services. Beginning July 1,
308 2023, any office seeking registration must provide such signed
309 attestation to the department. An office's failure to provide
310 the signed attestation is grounds for denial of registration or
311 the suspension or revocation of registration under paragraph
312 (f).

313 Section 9. Paragraph (c) of subsection (1) of section
314 459.0138, Florida Statutes, is amended to read:

315 459.0138 Office surgeries.—

316 (1) REGISTRATION.—

317 (c) Each of the following is ~~As~~ a condition of
318 registration:7

319 1. An each office must establish financial responsibility

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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. 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 10. Section 766.318, Florida Statutes, is created to read:

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

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

(2) The limitations on punitive damages in s. 768.73(1) do

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not apply to actions brought under this section.

(3) An action brought under this section:

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

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

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

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

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

Section 11. 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 12. 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 13. This act shall take effect upon becoming a law.