

IMPACT OF SB254 IN THE VERSION THAT PASSED

(1) CUSTODY PROVISION:

- Big Picture Take Away: The state (DCF, CPS, child welfare system) cannot investigate or remove children from supportive parents under the language of this bill. Period. Full Stop.
- The custody provisions of SB 254 fall under Chapter 61 - which governs Dissolution of Marriage (divorce) and custody orders in that context. It is a completely different statute, within a completely different chapter, within a completely different title than the laws about child welfare, which fall under Chapter 39 - which governs foster care / DCF state investigations.
- These provisions are only applicable in situations where two legal parents have shared custody of a trans child, and one parent does not support/affirm the child by a second, and that parent asks the court in Florida to take jurisdiction over the existing custody case to modify it to "protect the child" from gender-affirming care. It is a temporary modification in custody between two legal parents, it does not in any conceivable fashion allow the state to investigate parents of trans kids or take children away from their supportive parents, period.
- The section titled "Warrant to take physical custody of child" similarly can only be used to enforce an existing custody order - i.e. if you have 50/50 timesharing with the other legal parent and you refuse to provide the other parent access to the child, a parent could "file a petition seeking enforcement of [the] child custody determination" including "issuance of a warrant to take physical custody of the child if the child is likely to imminently suffer serious physical harm."
 - They include that being subjected to gender-affirming care falls within serious physical harm, but that is the second step of the process, it means nothing unless there is an existing custody order that the parent is seeking to enforce, meaning an existing order giving the non-affirming parent sole custody.
 - Further, the definition of "serious physical harm" within this very specific limited statutory provision does not impact any other statute, nor does it deem gender-affirming care to be child abuse, nor does it subject parents to losing their children under the child welfare statutes. This is unrelated.

(2) PROHIBITED USE OF STATE FUNDS PROVISION:

- Prohibits any governmental entity, including Florida's Medicaid program, colleges/universities, and the state employee health insurance programs, from spending any money on what they call "sex-reassignment prescriptions or procedures" (i.e. gender-affirming care).
 - This codifies (makes a statute about) the rule that AHCA passed last year banning Medicaid coverage of gender-affirming care (which was challenged, and the federal trial starts next week!) and it codifies the existing exclusion in the health insurance plans offered to state employees (which was also challenged, and we await a ruling on the motions for summary judgment).

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(3) THE BAN ON GENDER-AFFIRMING CARE FOR MINORS:

- Prohibits "sex-reassignment prescriptions or procedures" (i.e. treatment for gender dysphoria) for minors but includes an exception for minors who were already receiving treatment for gender dysphoria prior to the effective date (which will be whenever the Governor signs the bill).
 - This basically codifies the rules that the Boards of Medicine and Osteopathic Medicine passed in March that prohibit Florida physicians from prescribing any treatment to minors who are not already receiving such treatments. This includes puberty blocking medications and hormones.
 - A lawsuit has been filed challenging those rules as well, and attorneys are asking the court for a Preliminary Injunction to block these rules from being enforced, and today a Temporary Restraining Order will be filed to ask the court to block SB 254's ban on treatment for minors from going into effect.
- SB 254's ban includes, which the Boards of Medicine rules did not include, a felony penalty for physicians who prescribe treatment for gender dysphoria to minors who were not already receiving such treatment prior to the effective date of the law. A violation of the section banning gender affirming care for minors who had not yet received treatment is punishable as a third degree felony. Further, if found guilty under this provision, the Department of Health shall suspend the license of the physician.

(4) IMPACTS ON ACCESS TO CARE FOR TRANSGENDER ADULTS:

- There is no ban on adults receiving gender-affirming care, however there is an informed consent requirement (informed consent is obtained by physicians prior to prescribing treatment, so this is not a novel requirement, but the specifics of what the informed consent process must include will be developed by the Florida Boards of medicine).
 - Violation of the informed consent requirement is punishable as a first degree misdemeanor
- The informed consent requirement does not apply to renewals, thus is not required for the prescribing of treatments/medications that the patient was already receiving, only new treatments/medications not yet prescribed.
- Prohibits anyone other than physicians (M.D.'s and D.O.'s) from prescribing any treatment for gender dysphoria - meaning APRN's, NP's, etc. can no longer prescribe gender-affirming care for minors or adults.
 - Violation of the section prohibiting non-physicians (anyone who isn't an M.D. or D.O.) from prescribing treatment for gender dysphoria is punishable as a first degree misdemeanor

NOTE: THERE IS NO BAN ON BIRTH CERTIFICATE AMENDMENTS IN THE FINAL VERSION AS PASSED