

STATE OF NEW YORK

6046--A

2023-2024 Regular Sessions

IN ASSEMBLY

March 31, 2023

Introduced by M. of A. BRONSON -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, the executive law, the civil practice law and rules, the criminal procedure law, the education law, the public health law and the insurance law, in relation to gender-affirming care

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The family court act is amended by adding a new section 659
2 to read as follows:

3 § 659. Consideration of law allowing gender-affirming care. 1. A law
4 of another state that authorizes a child to be removed from their parent
5 or guardian based on the parent or guardian allowing their child to
6 receive gender-affirming care shall not be enforced or applied in a case
7 pending in a court in this state.

8 2. No court in this state shall admit or consider a finding of abuse
9 based on the parent or guardian allowing their child to receive or seek
10 gender-affirming care as evidence in any proceeding with respect to that
11 parent or guardian and any of their children, unless such conduct would
12 constitute abuse under the laws of this state if it occurred in this
13 state.

14 § 2. The executive law is amended by adding a new section 837-x to
15 read as follows:

16 § 837-x. Cooperation with certain out-of-state investigations. No
17 state or local law enforcement agency shall cooperate with or provide
18 information to any individual or out-of-state agency or department
19 regarding the provision, seeking, or assistance in provision or seeking
20 of lawful gender-affirming care performed in this state. Nothing in this
21 section shall prohibit the investigation of any criminal activity in
22 this state which may involve the performance of gender-affirming care

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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provided that no information relating to any medical procedure performed on a specific individual may be shared with an out-of-state agency or any other individual.

§ 3. Section 3119 of the civil practice law and rules is amended by adding a new subdivision (h) to read as follows:

(h) Subpoenas related to gender-affirming care. Notwithstanding any other provisions of law, no court or county clerk shall issue a subpoena under this section in connection with an out-of-state proceeding relating to any gender-affirming care which was legally performed, sought, received, or supported in this state, unless such out-of-state proceeding (1) sounds in tort or contract, or is based on statute, (2) is actionable, in an equivalent or similar manner, under the laws of this state, and (3) was brought by the patient who received the gender-affirming care, or the patient's legal representative.

§ 4. Subdivision (e) of section 3102 of the civil practice law and rules, as amended by chapter 219 of the laws of 2022, is amended to read as follows:

(e) Action pending in another jurisdiction. Except as provided in section three thousand one hundred nineteen of this article, when under any mandate, writ or commission issued out of any court of record in any other state, territory, district or foreign jurisdiction, or whenever upon notice or agreement, it is required to take the testimony of a witness in the state, he or she may be compelled to appear and testify in the same manner and by the same process as may be employed for the purpose of taking testimony in actions pending in the state. The supreme court or a county court shall make any appropriate order in aid of taking such a deposition; provided that no order may be issued under this section in connection with an out-of-state proceeding relating to any abortion services or procedures or gender-affirming care which were legally performed in this state, unless such out-of-state proceeding (1) sounds in tort or contract, or is based on statute, (2) is actionable, in an equivalent or similar manner, under the laws of this state, and (3) was brought by the patient who received reproductive healthcare or gender-affirming care, or the patient's legal representative.

§ 5. Section 140.10 of the criminal procedure law is amended by adding a new subdivision 3-b to read as follows:

3-b. A police officer may not arrest any person for performing or aiding in the performance of gender-affirming care within this state, or in procuring or aiding in the procurement of gender-affirming care in this state, if the gender-affirming care is performed in accordance with the provisions of any other applicable law of this state.

§ 6. The criminal procedure law is amended by adding a new section 570.19 to read as follows:

§ 570.19 Extradition of gender-affirming care providers, seekers, parents, guardians, and helpers.

No demand for the extradition of a person subject to criminal liability that is in whole or part based on the alleged provision or receipt of, support for, or any theory of vicarious, joint, several or conspiracy liability for gender-affirming care lawfully performed in New York shall be recognized by the governor unless the executive authority of the demanding state shall allege in writing that the accused was present in the demanding state at the time of the commission of the alleged offense, and that thereafter he, she or they fled from that state.

§ 7. Subdivision 1 of section 6531-b of the education law is amended by adding a new paragraph (c) to read as follows:

1 (c) "Gender-affirming care" means any type of care provided to an
2 individual to affirm their gender identity or gender expression;
3 provided that surgical interventions on minors with variations in their
4 sex characteristics that are not sought and initiated by the individual
5 patient are not gender-affirming care.

6 § 8. Subdivision 2 of section 6531-b of the education law, as added by
7 chapter 220 of the laws of 2022, is amended to read as follows:

8 2. The performance, recommendation, or provision of any reproductive
9 health services or gender-affirming care, as defined in subdivision one
10 of this section, by a health care practitioner acting within their scope
11 of practice, for a patient who resides in a state wherein the perform-
12 ance, recommendation, or provision of such reproductive health services
13 or gender affirming-care is illegal, shall not, by itself, constitute
14 professional misconduct under this title, or title two-A of article two
15 of the public health law, or any other law, rule or regulation governing
16 the licensure, certification, or authorization of such practitioner, nor
17 shall any license, certification or authorization of a health care prac-
18 titioner be revoked, suspended, or annulled or otherwise subject to any
19 other penalty or discipline provided in the public health law or this
20 title solely on the basis that such health care practitioner performed,
21 recommended, or provided any such reproductive health services or
22 gender-affirming care for a patient who resides in a state wherein the
23 performance, recommendation, or provision of such reproductive health
24 services or gender-affirming care is illegal.

25 § 9. Subdivision 9-c of section 230 of the public health law, as added
26 by chapter 220 of the laws of 2022, is amended to read as follows:

27 9-c. (a) Neither the board for professional medical conduct nor the
28 office of professional medical conduct shall charge a licensee, acting
29 within their scope of practice, with misconduct as defined in sections
30 sixty-five hundred thirty and sixty-five hundred thirty-one of the
31 education law, or cause a report made to the director of such office to
32 be investigated beyond a preliminary review as set forth in clause (A)
33 of subparagraph (i) of paragraph (a) of subdivision ten of this section,
34 where such report is determined to be based solely upon the performance,
35 recommendation, or provision of any reproductive health services as
36 defined in section sixty-five hundred thirty-one-b of the education law,
37 or gender-affirming care for a particular patient by such licensee where
38 such patient resides in a state wherein the performance, recommendation
39 or provision of such reproductive health services or gender-affirming
40 care is illegal.

41 (b) When a licensee, acting within their scope of practice, and in
42 accordance with paragraph e of subdivision four of section sixty-five
43 hundred twenty-seven of the education law, performs, recommends or
44 provides any reproductive health services or gender-affirming care for a
45 patient who resides in a state wherein the performance, recommendation,
46 or provision of any such reproductive health services or gender-affirm-
47 ing care is illegal, such performance, recommendation, or provision of
48 such reproductive health services or gender-affirming care for such
49 patient, shall not, by itself, constitute professional misconduct. The
50 licensee shall otherwise abide by all other applicable professional
51 requirements.

52 § 10. Section 6505-d of the education law, as added by chapter 220 of
53 the laws of 2022, is amended to read as follows:

54 § 6505-d. Evaluation of prior disciplinary history for authorization
55 to practice. An applicant seeking licensure, certification, or authori-
56 zation pursuant to this title who has been subject to disciplinary

1 action by a duly authorized professional disciplinary agency of another
2 jurisdiction solely on the basis of having performed, recommended, or
3 provided an abortion pursuant to section twenty-five hundred ninety-
4 nine-bb of the public health law, or gender-affirming care shall not be
5 denied such licensure, certification, or authorization, unless the
6 department determines that such action would have constituted profes-
7 sional misconduct in this state. Provided however, that nothing in this
8 section shall be construed as prohibiting the department from evaluating
9 the conduct of such applicant and making a determination to be licensed,
10 certified, or authorized to practice a profession under this title.

11 § 11. Section 3436-a of the insurance law, as added by chapter 221 of
12 the laws of 2022, is amended to read as follows:

13 § 3436-a. [~~1.~~] Adverse action against legal reproductive health care
14 or gender affirming-care. 1. Every insurer which issues or renews
15 medical malpractice insurance covering a health care provider licensed
16 to practice in this state shall be prohibited from taking any adverse
17 action against a health care provider solely on the basis that the
18 health care provider performs an abortion or provides reproductive
19 health care or gender-affirming care that is legal in the state of New
20 York on someone who is from out of the state. Such policy shall include
21 health care providers who legally prescribe abortion medication to out-
22 of-state patients by means of telehealth.

23 2. As used in this section, "adverse action" shall mean but not be
24 limited to: (a) refusing to renew or execute a contract or agreement
25 with a health care provider; (b) making a report or commenting to an
26 appropriate private or governmental entity regarding practices of such
27 provider which may violate abortion laws in other states; and (c)
28 increasing in any charge for, or a reduction or other adverse or unfa-
29 vorable change in the terms of coverage or amount for, any medical malp-
30 ractice insurance contract or agreement with a health care provider.

31 § 12. This act shall take effect immediately.