STATE OF NEW YORK

7687

2023-2024 Regular Sessions

IN ASSEMBLY

June 5, 2023

Introduced by M. of A. BRONSON -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act and the domestic relations law, in relation to gender-affirming care

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

Section 1. Subdivision 1 of section 659 of the family court act, as added by a chapter of the laws of 2023 amending the family court act and other laws relating to gender-affirming care, as proposed in legislative bills numbers S. 2475-B and A. 6046-B, is amended to read as follows:

1. A law [~~of another state~~] that authorizes a child to be removed from their parent or guardian based on the parent or guardian allowing their child to receive gender-affirming care **is against the public policy of this state and** shall not be enforced or applied in a case pending in a court in this state.

§ 2. Section 76 of the domestic relations law is amended by adding a new subdivision 4 to read as follows:

4. The presence of a child in this state for the purpose of obtaining gender-affirming care, as defined by section sixty-five hundred thirty-one-b of the education law, is sufficient to meet the requirements of paragraph (b) of subdivision one of this section.

§ 3. Subdivision 1 of section 76-c of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

1. A court of this state has temporary emergency jurisdiction if the child is present in this state and**:**

(a) the child has been abandoned [~~or~~]**;**

(b) it is necessary in an emergency to protect the child, a sibling or parent of the child**; or**

(c) the child is present in this state because the child has been unable to obtain gender-affirming care, as defined by section sixty-five hundred thirty-one-b of the education law.

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

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§ 4. Subdivisions 3 and 4 of section 76-f of the domestic relations law are renumbered subdivisions 4 and 5, and a new subdivision 3 is added to read as follows:

3. In a case where the provision of gender-affirming care to the child is at issue, a court of this state shall not determine that it is an inconvenient forum and must find that it is a more appropriate forum where the law or policy of the other state that may take jurisdiction limits the ability of a parent to obtain gender-affirming care for their child. For the purposes of this section, "gender-affirming care" has the same meaning as defined by section sixty-five hundred thirty-one of the education law.

§ 5. Subdivision 4 of section 76-g of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

4. In making a determination under this section, a court shall not consider as a factor weighing against the petitioner any taking of the child, or retention of the child after a visit or other temporary relinquishment of physical custody, from the person who has legal custody, if there is evidence that the taking or retention of the child was to protect the petitioner from domestic violence or the child or sibling from mistreatment or abuse**, or for the purposes of obtaining gender-affirming care, as defined by section sixty-five hundred thirty-one-b of the education law, for the child and the law or policy of the other state limits the ability of a parent to obtain gender-affirming care for their child**.

§ 6. Section 77-l of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

§ 77-l. **1.** Recognition and enforcement. A court of this state shall accord full faith and credit to an order issued by another state and consistent with this article which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under title two of this article, unless recognition and enforcement would violate subdivision one-c of section two hundred forty of this chapter or section one thousand eighty-five of the family court act.

2. (a) A law that authorizes a state agency to remove a child from their parent or guardian based on the parent or guardian allowing their child to receive gender-affirming care is against the public policy of this state and shall not be enforced or applied in a case pending in a court in this state.

(b) For the purpose of this subdivision, "gender-affirming care" shall have the same meaning as provided by section sixty-five hundred thirty-one-b of the education law.

§ 7. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 8. This act shall take effect immediately.