

STATE OF NEW YORK

6046--B

2023-2024 Regular Sessions

IN ASSEMBLY

March 31, 2023

Introduced by M. of A. BRONSON, SHIMSKY, GONZALEZ-ROJAS, HEVESI, REYES, SIMONE, SEAWRIGHT, SOLAGES, CRUZ, SHRESTHA, CLARK, SIMON, EPSTEIN, PAULIN, GLICK, GALLAGHER, LUNSFORD, O'DONNELL, KELLES, L. ROSENTHAL, BORES, BURDICK, STIRPE -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- 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:

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

§ 659. Consideration of law allowing gender-affirming care. 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 shall not be enforced or applied in a case pending in a court in this state.

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

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

§ 837-x. Cooperation with certain out-of-state investigations. No state or local law enforcement agency shall cooperate with or provide

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

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information to any individual or out-of-state agency or department regarding the provision, seeking, or assistance in provision or seeking of lawful gender-affirming care performed in this state. Nothing in this section shall prohibit the investigation of any criminal activity in this state which may involve the performance of gender-affirming care 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

1 in the demanding state at the time of the commission of the alleged
2 offense, and that thereafter he, she or they fled from that state.

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

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

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

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

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

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

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

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

3 § 6505-d. Evaluation of prior disciplinary history for authorization
4 to practice. An applicant seeking licensure, certification, or authori-
5 zation pursuant to this title who has been subject to disciplinary
6 action by a duly authorized professional disciplinary agency of another
7 jurisdiction solely on the basis of having performed, recommended, or
8 provided an abortion pursuant to section twenty-five hundred ninety-
9 nine-bb of the public health law, or gender-affirming care shall not be
10 denied such licensure, certification, or authorization, unless the
11 department determines that such action would have constituted profes-
12 sional misconduct in this state. Provided however, that nothing in this
13 section shall be construed as prohibiting the department from evaluating
14 the conduct of such applicant and making a determination to be licensed,
15 certified, or authorized to practice a profession under this title.

16 § 11. The section heading and subsection (a) of section 3436-a of the
17 insurance law, as amended by section 4 of part LL of chapter 57 of the
18 laws of 2023, are amended to read as follows:

19 Adverse action against legal reproductive health care or gender-af-
20 firming care. (a) Every insurer that issues or renews medical malprac-
21 tice insurance covering a health care provider licensed to practice in
22 this state shall be prohibited from taking any adverse action against a
23 health care provider solely on the basis that the health care provider
24 performs an abortion or provides reproductive health care or gender-af-
25 firming care that is legal in this state on someone who is from out of
26 the state. Such policy shall include health care providers who legally
27 prescribe abortion medication to out-of-state patients by means of tele-
28 health.

29 § 12. This act shall take effect immediately.