STATE OF NEW YORK

8058

IN SENATE

January 5, 2024

Introduced by Sen. HOYLMAN-SIGAL -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the family court act, the executive law, the civil practice law and rules, the criminal procedure law, the public health law, the education 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. Section 659 of the family court act, as added by a chapter of the laws of 2023 amending 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 relating to gender-affirming care, as proposed in legislative bills numbers S. 2475-B and A. 6046-B, is amended 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**, neglect or maltreatment** 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**, neglect or maltreatment** under the laws of this state [~~if it occurred in this state~~].

3. For purposes of this section, "gender-affirming care" shall have the same meaning as defined in paragraph (c) of subdivision one of section sixty-five hundred thirty-one-b of the education law.

§ 2. Section 837-x of the executive law, as added by a chapter of the laws of 2023 amending 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 relating to gender-affirming

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

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care, as proposed in legislative bills numbers S. 2475-B and A. 6046-B, is amended 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 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**, as defined in paragraph (c) of subdivision one of section sixty-five hundred thirty-one-b of the education law,** 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. Subdivision (h) of section 3119 of the civil practice law and rules, as added by a chapter of the laws of 2023 amending 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 relating to gender-affirming care, as proposed in legislative bills numbers S. 2475-B and A. 6046-B, is amended 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**, as defined in paragraph (c) of subdivision one of section sixty-five hundred thirty-one-b of the education law,** 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 a chapter of the laws of 2023 amending 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 relating to gender-affirming care, as proposed in legislative bills numbers S. 2475-B and A. 6046-B, 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**, as defined in paragraph (c) of subdivision one of section sixty-five hundred thirty-one-b of the education law,** 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. Subdivision 3-b of section 140.10 of the criminal procedure law, as added by a chapter of the laws of 2023 amending 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 relating to gender-affirming care, as proposed in legislative bills numbers S. 2475-B and A. 6046-B, is amended 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**, as defined in paragraph (c) of subdivision one of section sixty-five hundred thirty-one-b of the education law,** 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. Section 570.19 of the criminal procedure law, as added by a chapter of the laws of 2023 amending 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 relating to gender-affirming care, as proposed in legislative bills numbers S. 2475-B and A. 6046-B, is amended 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**, as defined in paragraph (c) of subdivision one of section sixty-five hundred thirty-one-b of the education law,** 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. Paragraph (a) of subdivision 9-c of section 230 of the public health law, as amended by a chapter of the laws of 2023 amending 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 relating to gender-affirming care, as proposed in legislative bills numbers S. 2475-B and A. 6046-B, is amended to read as follows:

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

§ 8. Section 6505-d of the education law, as amended by a chapter of the laws of 2023 amending 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 relating to gender-affirming care, as proposed in legislative bills numbers S. 2475-B and A. 6046-B, is amended to read as follows:

§ 6505-d. Evaluation of prior disciplinary history for authorization to practice. An applicant seeking licensure, certification, or authorization pursuant to this title who has been subject to disciplinary action by a duly authorized professional disciplinary agency of another jurisdiction solely on the basis of having performed, recommended, or provided an abortion pursuant to section twenty-five hundred ninety-nine-bb of the public health law, or gender-affirming care**, as defined in paragraph (c) of subdivision one of section sixty-five hundred thirty-one-b of the education law,** shall not be denied such licensure, certification, or authorization, unless the department determines that such action would have constituted professional misconduct in this state. Provided however, that nothing in this section shall be construed as prohibiting the department from evaluating the conduct of such applicant and making a determination to be licensed, certified, or authorized to practice a profession under this title.

§ 9. Subsection (a) of section 3436-a of the insurance law, as amended by a chapter of the laws of 2023 amending 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 relating to gender-affirming care, as proposed in legislative bills numbers S. 2475-B and A. 6046-B, is amended to read as follows:

(a) Every insurer that issues or renews medical malpractice insurance covering a health care provider licensed to practice in this state shall be prohibited from taking any adverse action against a health care provider solely on the basis that the health care provider performs an abortion or provides reproductive health care or gender-affirming care**, as defined in paragraph (c) of subdivision one of section sixty-five hundred thirty-one-b of the education law,** that is legal in this state on someone who is from out of the state. Such policy shall include health care providers who legally prescribe abortion medication to out-of-state patients by means of telehealth.

§ 10. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2023 amending 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 relating to gender-affirming care, as proposed in legislative bills numbers S. 2475-B and A. 6046-B, takes effect.