STATE OF NEW YORK

9763

IN SENATE

April 6, 2026

Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the domestic relations law, in relation to consideration of gender-affirming health care or gender-affirming mental health care in child custody cases

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

Section 1. 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 health care or gender-affirming mental health care, is sufficient to meet the requirements of this section and to enable the court to obtain initial child custody jurisdiction.

§ 2. 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 the child has been abandoned or it is necessary in an emergency to protect the child **because the child**, **or** a sibling or parent of the child**, is subjected to, or threatened with, mistreatment or abuse, or because the child has been prevented from obtaining gender-affirming health care or gender-affirming mental health care**.

§ 3. Section 76-f of the domestic relations law is amended by adding a new subdivision 5 to read as follows:

5. In a case where the provision of gender-affirming health care or gender-affirming mental health care to the child is at issue, a court of this state shall not determine that it is an inconvenient forum where the law or policy of the other state that may take jurisdiction limits the ability of a parent to obtain gender-affirming health care or gender-affirming mental health care for their child.

§ 4. 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

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

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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~~] **for the purposes of obtaining gender-affirming health care or gender-affirming mental health care for the child and the law or policy of the other state limits the ability of a parent to obtain gender-affirming health care or gender-affirming mental health care for their child**.

§ 5. Section 77-b of the domestic relations law is amended by adding two new subdivisions 3 and 4 to read as follows:

3. Notwithstanding the provisions of subdivision one of this section, 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 health care or gender-affirming mental health 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.

4. A court of this state has jurisdiction to vacate, stay or modify a child custody determination of a court of another state which failed to recognize a child's right to receive gender-affirming health care or gender-affirming mental health care.

§ 6. Subdivision 1 of section 77-j of the domestic relations law, as added by chapter 386 of the laws of 2001, is amended to read as follows:

1. Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is at imminent risk of suffering serious physical harm or of removal from this state. **As used in this section, "serious physical harm" does not include the provision of gender-affirming health care and/or gender-affirming mental health care.**

§ 7. 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. Recognition and enforcement. **1.** 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. Notwithstanding the provisions of subdivision one of this section, 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 health care or gender-affirming mental health 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.

3. A court of this state has jurisdiction to vacate, stay or modify a child custody determination of a court of another state which failed to recognize a child's right to receive gender-affirming health care or gender-affirming mental health care.

§ 8. This act shall take effect immediately.