102ND GENERAL ASSEMBLY
State of Illinois
2021 and 2022
SB4245

Introduced 11/22/2022, by Sen. Mike Simmons

SYNOPSIS AS INTRODUCED:
See Index

Creates the Gender-Affirming Health Care Protection Act. Restricts the State from: (1) applying a law of another state that authorizes civil or criminal penalties against any person for providing, authorizing, aiding, assisting, receiving, or otherwise allowing a child to receive gender-affirming care or referring a child for such care; (2) enforcing or satisfying a civil judgment received under a law of another state that authorizes civil or criminal penalties against any person for providing, authorizing, aiding, assisting, receiving, or otherwise allowing a child to receive gender-affirming care or referring a child for such care; or (3) aiding or intentionally participating in a criminal investigation, arrest, search, or detention of an individual pursuant to a criminal law of another state that authorizes civil or criminal penalties against any person for providing, authorizing, aiding, assisting, receiving, or otherwise allowing a child to receive gender-affirming care or referring a child for such care. Prohibits a law enforcement officer from knowingly participating in the arrest of an individual pursuant to an out-of-state arrest warrant issued solely on the basis of the individual providing, authorizing, aiding, assisting, receiving, or otherwise allowing a child to receive gender-affirming care or referring a child for such care. Amends the Uniform Criminal Extradition Act. Prohibits the Governor from complying with a demand of another state to surrender an individual for providing, authorizing, aiding, assisting, receiving, or otherwise allowing a child to receive gender-affirming care or referring a child for such care. Amends the Code of Civil Procedure. Restricts a subpoena from being issued if the subpoena is based on a violation of another state's laws that interfere with a person's right to allow a child to receive gender-affirming care. Restricts a person or entity from releasing medical information based on another state's laws that authorizes a person to bring a civil action against a person or entity that allows a child to receive gender-affirming care. Makes conforming changes in the Uniform Interstate Depositions and Discovery Act. Effective June 1, 2023.
AN ACT concerning human rights.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Gender-Affirming Health Care Protection Act.

Section 5. Findings. The General Assembly finds that:

1. Gender-affirming care encompasses many forms of health care support that improve the mental health and overall well-being of gender diverse children and adolescents and has been shown to increase positive outcomes for transgender and nonbinary children and adolescents.

2. Gender diverse adolescents face a significantly higher risk of mental health issues, substance use, and suicide than their cisgender peers.

3. A safe and affirming health care environment is critical to provide positive outcomes for transgender, nonbinary, and other gender expansive children and adolescents, yet legislation intended to restrict access to gender-affirming care has been enacted or introduced in at least 15 states.

4. This State's commitment to pursuing positive physical and mental health outcomes for gender diverse individuals prevents it from participating in the enforcement of the
prejudicial policies of other states that are hostile to
gender diverse children and adolescents.

Section 10. Definition. As used in this Act, "gender-affirming care" means medically necessary health care that respects the gender identity of the patient, as experienced and defined by the patient, including, but not limited to:

(1) interventions to suppress the development of endogenous secondary sex characteristics;

(2) interventions to align the patient's appearance or physical body with the patient's gender identity;

(3) interventions to alleviate symptoms of clinically significant distress resulting from gender dysphoria, as defined in the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition; or

(4) mental health care or behavioral health care that respects the gender identity of the patient, as experienced and defined by the patient, including, but not limited to, developmentally appropriate exploration and integration of identity, reduction of distress, adaptive coping, and strategies to increase family acceptance.

Section 15. Restricted State action.

(a) A law of another state that authorizes civil or criminal penalties against any person for providing,
authorizing, aiding, assisting, receiving, or otherwise allowing a child to receive gender-affirming care or referring a child for such care, so long as the gender-affirming care that serves as the basis of the warrant is not alleged to have been performed in a manner that violates the laws of this State is contrary to the public policy of this State.

(b) The State shall not:

(1) apply a law described in subsection (a) to a case or controversy heard in State court;

(2) enforce or satisfy a civil judgment received through an adjudication under a law described in subsection (a); or

(3) aid or intentionally participate in the criminal investigation, arrest, search, or detention of an individual pursuant to a criminal law described in subsection (a).

Section 20. Prohibited arrest. Notwithstanding any law to the contrary, no law enforcement officer of this State or a unit of local government shall knowingly participate in the arrest of an individual pursuant to an out-of-state arrest warrant issued solely on the basis of the individual providing, authorizing, aiding, assisting, receiving, or otherwise allowing a child to receive gender-affirming care or referring a child for such care, so long as the care that serves as the basis of the warrant is not alleged to violate
the laws of this State.

Section 25. The Uniform Criminal Extradition Act is amended by adding Section 4.5 as follows:

(725 ILCS 225/4.5 new)

Sec. 4.5. Extradition for gender-affirming care prohibited. When a demand is made upon the Governor by the Executive Authority of another state for the surrender of a person charged with providing, authorizing, aiding, assisting, receiving, or otherwise permitting in a child receiving gender-affirming care or referring a child for such care, so long as the gender-affirming care that serves as the basis of the warrant is not alleged to have been performed in a manner that violates the laws of this State, the Governor shall not comply with the demand and shall not surrender the person. As used in this Section, "gender-affirming care" has the same meaning as provided in Section 10 of the Gender-Affirming Health Care Protection Act.

Section 30. The Code of Civil Procedure is amended by changing Section 2-1101 and by adding Section 2-1101.1 as follows:

(735 ILCS 5/2-1101) (from Ch. 110, par. 2-1101)

Sec. 2-1101. Subpoenas. The clerk of any court in which an
action is pending shall, from time to time, issue subpoenas for those witnesses and to those counties in the State as may be required by either party. Every clerk who shall refuse so to do shall be guilty of a petty offense and fined any sum not to exceed $100. An attorney admitted to practice in the State of Illinois, as an officer of the court, may also issue subpoenas on behalf of the court for witnesses and to counties in a pending action. An order of court is not required to obtain the issuance by the clerk or by an attorney of a subpoena duces tecum. For good cause shown, the court on motion may quash or modify any subpoena or, in the case of a subpoena duces tecum, condition the denial of the motion upon payment in advance by the person in whose behalf the subpoena is issued of the reasonable expense of producing any item therein specified.

In the event that a party has subpoenaed an expert witness including, but not limited to physicians or medical providers, and the expert witness appears in court, and a conflict arises between the party subpoenaing the expert witness and the expert witness over the fees charged by the expert witness, the trial court shall be advised of the conflict. The trial court shall conduct a hearing subsequent to the testimony of the expert witness and shall determine the reasonable fee to be paid to the expert witness.

Notwithstanding any law to the contrary, no subpoena shall be issued if the subpoena is based on a violation of another state's laws that interfere with a person's right to allow a
child to receive gender-affirming care. As used in this Section, "gender-affirming care" has the same meaning as provided in Section 10 of the Gender-Affirming Health Care Protection Act.
(Source: P.A. 95-1033, eff. 6-1-09.)

(735 ILCS 5/2-1101.1 new)

Sec. 2-1101.1. Foreign subpoenas related to gender-affirming care.

(a) Notwithstanding any law to the contrary, a person or entity shall not release medical information to a person or entity allowing a child to receive gender-affirming care in response to any civil action, including a foreign subpoena, based on another state's law that authorizes a person to bring a civil action against a person or entity that allows a child to receive gender-affirming care.

(b) Notwithstanding any law to the contrary, a person or entity shall not release medical information to a person or entity that has requested that information and that is authorized by law to receive it if the information is related to a person or entity allowing a child to receive gender-affirming care and the information is being requested pursuant to another state's law that authorizes a person to bring a civil action against a person or entity that allows a child to receive gender-affirming care.

(c) As used in this Section, "gender-affirming care" has
the same meaning as provided in Section 10 of the Gender-Affirming Health Care Protection Act.

Section 35. The Uniform Interstate Depositions and Discovery Act is amended by changing Sections 2 and 3 as follows:

(735 ILCS 35/2)

Sec. 2. Definitions. In this Act:

(1) "Foreign jurisdiction" means a state other than this State.

(2) "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(2.5) "Gender-affirming care" means medically necessary health care that respects the gender identity of the patient, as experienced and defined by the patient, including, but not limited to:

(A) interventions to suppress the development of endogenous secondary sex characteristics;

(B) interventions to align the patient's appearance or physical body with the patient's gender identity;

(C) interventions to alleviate symptoms of clinically significant distress resulting from gender dysphoria, as defined in the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition; or

(D) mental health care or behavioral health care that
respects the gender identity of the patient, as experienced and defined by the patient, including, but not limited to, developmentally appropriate exploration and integration of identity, reduction of distress, adaptive coping, and strategies to increase family acceptance.

(3) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(4) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

(5) "Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to:

(A) attend and give testimony at a deposition;

(B) produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or

(C) permit inspection of premises under the control of the person.

(Source: P.A. 99-79, eff. 1-1-16.)
Sec. 3. Issuance of subpoena.

(a) To request issuance of a subpoena under this Section, a party must submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in this State. A request for the issuance of a subpoena under this Act does not constitute an appearance in the courts of this State.

(b) When a party submits a foreign subpoena to a clerk of court in this State, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(c) A subpoena under subsection (b) must:

(A) incorporate the terms used in the foreign subpoena; and

(B) contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(d) Notwithstanding any law to the contrary, no subpoena shall be issued pursuant to this Section if the foreign subpoena is based on a violation of another state's laws that interfere with a person's right to allow a child to receive gender-affirming care.

(Source: P.A. 99-79, eff. 1-1-16.)
Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99. Effective date. This Act takes effect June 1, 2023.
INDEX

Statutes amended in order of appearance

New Act

725 ILCS 225/4.5 new

735 ILCS 5/2-1101 from Ch. 110, par. 2-1101

735 ILCS 5/2-1101.1 new

735 ILCS 35/2

735 ILCS 35/3