
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 1854 **Hearing Date:** June 23, 2026
Author: Krell
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Urgency: No **Fiscal:** Yes
Consultant: ML

Subject: *Legally protected health care activities*

HISTORY

Source: Attorney General Rob Bonta

Prior Legislation: SB 497 (Wiener), Ch. 764, Stats. of 2025
AB 82 (Ward), Ch. 679, Stats. of 2025
SB 107 (Wiener), Ch. 810, Stats. of 2022
SB 345 (Skinner), Ch. 260, Stats. 2023
AB 2091 (Bonta), Ch. 628, Stats. of 2022
AB 1666 (Bauer-Kahan), Ch. 42, Stats. of 2022

Support: California Chapter of the American College of Emergency Physicians; Electronic Frontier Foundation; Los Angeles LGBT Center; Planned Parenthood Affiliates of California

Opposition: California Bankers Association; California Chamber of Commerce; Democrats for an Informed Approach to Gender

Assembly Floor Vote: 60 - 17

PURPOSE

The purpose of this bill is to prohibit a state or local law enforcement agency from knowingly causing the arrest of or arresting any person who the Governor has declined to surrender on the demand of the executive authority of any other state where the accused was not in the demanding state at the time of the commission of the crime and has not fled from another state.

Existing law defines “legally protected health care activity” as any of the following:

- The exercise and enjoyment, or attempted exercise and enjoyment, by a person of rights to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services secured by the Constitution or laws of California or the provision of such services by a health care service plan contract or a policy, or a certificate of health insurance that provides for such services.
- An act or omission undertaken to aid or encourage, or attempt to aid or encourage, a person in the exercise and enjoyment or attempted exercise and enjoyment of rights to

reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services secured by the Constitution or laws of California.

- The provision of reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services by a person duly licensed under the laws of California or the coverage of, and reimbursement for, those services or care by a health care service plan or a health insurer, if the service or care is lawful under the laws of California, regardless of the patient's location. (Pen. Code, § 1549.15, subd. (b)(1)(A)-(C).)

Existing law states that “gender-affirming health care” and “gender-affirming mental health care” mean medically necessary health care that respects the gender identity of the patient, as experienced and defined by the patient, and may include, but is not limited to, interventions to suppress the development of endogenous secondary sex characteristics; interventions to align the patient's appearance or physical body with the patient's gender identity; and 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. (Pen. Code, § 1549.15, subd. (a).)

Existing law states that “reproductive health care services” means and includes all services, care, or products of a medical, surgical, psychiatric, therapeutic, diagnostic, mental health, behavioral health, preventative, rehabilitative, supportive, consultative, referral, prescribing, or dispensing nature relating to the human reproductive system provided in accordance with the Constitution and laws of this state, whether provided in person or by means of telehealth services. Defines “reproductive health care services” to include but not be limited to all services, care, and products relating to pregnancy, the termination of a pregnancy, assisted reproduction, or contraception. (Pen. Code, § 1549.15, subd. (c).)

Existing law defines “anti-reproductive-rights crime” to mean a crime committed partly or wholly because the victim is a reproductive health services client, provider, or assistant, or a crime that is partly or wholly intended to intimidate the victim, any other person or entity, or any class of persons or entities from becoming or remaining a reproductive health services client, provider, or assistant. (Pen. Code, § 13776, subd. (a).)

Existing law requires the Department of Justice (DOJ) to direct local law enforcement agencies to report annually to DOJ specified information related to anti-reproductive-rights crimes. (Pen. Code, § 13777, subd. (a)(2).)

Existing law requires DOJ to carry out certain functions relating to anti-reproductive-rights crimes in consultation with the Governor, the Commission on Peace Officer Standards and Training (POST), and other subject matter experts. (Pen. Code, § 13777, subd. (b).)

Existing law requires POST to develop an interactive training course on anti-reproductive-rights crimes and make the telecourse available to all California law enforcement agencies through an online portal or platform. (Pen. Code, § 13778, subd. (a).)

Existing law mandates that every law enforcement agency in this state develop, adopt, and implement written policies and standards for officers' responses to anti-reproductive-rights calls by January 1, 2023. (Pen. Code, § 13778.1.)

Existing law prohibits a state or local law enforcement agency or officer from knowingly arresting or knowingly participating in the arrest of any person for performing, supporting, or aiding in the performance of a legally protected health care activity, as defined, if the legally protected health care activity is lawful in California. (Pen. Code, § 13778.2, subd. (a).)

Existing law prohibits a state or local public agency, or any employee thereof acting in their official capacity, from cooperating with or providing information to any individual or agency or department from another state or, to the extent permitted by federal law, to a federal law enforcement agency regarding a legally protected health care activity that is lawful under the laws of this state and that is performed in this state. (Pen. Code, § 13778.2, subd. (b).)

Existing law states that a law of another state that authorizes the imposition of civil or criminal penalties related to an individual performing, supporting, or aiding in the performance of a legally protected health care activity in this state, or an individual obtaining a legally protected health care activity in this state, if the legally protected health care activity is lawful under the laws of this state, is against the public policy of this state. (Pen. Code, § 13778.2, subd. (c)(1).)

Existing law prohibits a state court, judicial officer, court employee or clerk, or authorized attorney from issuing a subpoena pursuant to any state law in connection with a proceeding in another state regarding an individual performing, supporting, or aiding in the performance of a legally protected health care activity in this state, or an individual obtaining a legally protected health care activity in this state, if the legally protected health care activity is lawful under the laws of this state. (Pen. Code, § 13778.2, subd. (c)(2).)

Existing law states that the investigation of any criminal activity in this state that may involve the performance of a legally protected health care activity is not prohibited, provided that information relating to any medical procedure performed on a specific individual is not shared with an agency or individual from another state for the purpose of enforcing another state's law involving a legally protected health care activity. (Pen. Code, § 13778.2, subd. (d).)

Existing law prohibits a state or local government employee, person or entity contracted by a state or local government, or person or entity acting on behalf of a local or state government from cooperating with or providing information to any individual or out-of-state agency or department, regarding any legally protected health care activity. States that the state or local government agency may not expend or use time, moneys, facilities, property, equipment, personnel, or other resources in furtherance of any investigation or proceeding that seeks to impose civil or criminal liability or professional sanctions upon a person or entity for any legally protected health care activity that occurred in this state or that would be legal if it occurred in this state. (Pen. Code, § 13778.3, subd. (b).)

Existing law requires that any out-of-state subpoena, warrant, wiretap order, pen register trap and trace order, legal process, or request from any law enforcement agent or entity shall include an affidavit or declaration under penalty of perjury that the discovery is not in connection with an out-of-state proceeding relating to any legally protected health care activity unless the out-of-state proceeding meets all of the following requirements:

- Is based in tort, contract, or on statute.
- Is actionable, in an equivalent or similar manner, under the laws of this state.

- Was brought by the patient who received a legally protected health care activity or the patient's legal representative. (Pen. Code, § 13778.3, subd. (d).)

Existing law prohibits a California corporation that provides electronic communication services or remote computing services to the general public from complying with an out-of-state subpoena, warrant, wiretap order, pen register trap and trace order, other legal process, or request by a law enforcement agent or entity seeking records that would reveal the identity of the customers using those services, data stored by, or on behalf of, the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications, unless the out-of-state subpoena, warrant, wiretap order, pen register trap and trace order, other legal process, or request from law enforcement includes the affidavit or declaration as described above. States that a corporation subject to this subdivision is entitled to rely on the representations made in the affidavit or declaration. (Pen. Code, § 13778.3, subd. (f).)

Existing law prohibits a person from posting on the internet or social media, with the intent that another person imminently use that information to commit a crime involving violence or a threat of violence against a reproductive health care services patient, provider, or assistant, or other individuals residing at the same home address, the personal information or image of a reproductive health care services patient, provider, or assistant, or other individuals residing at the same home address. (Gov. Code, § 6218.01, subd. (a)(1).)

Existing law provides that the above crime is punishable by a fine of up to \$10,000 per violation, imprisonment of either up to one year in a county jail or by imprisonment for 16 months, two years, or three years, or by both that fine and imprisonment. (Gov. Code, § 6218.01, subd. (a)(2).)

Existing law provides that a violation of the above crime that leads to the bodily injury of a reproductive health care services patient, provider, or assistant, or other individuals residing at the same home address, is a felony punishable by a fine of up to \$50,000, imprisonment for 16 months, two years, or three years, or by both that fine and imprisonment. (Gov. Code, § 6218.01, subd. (a)(2).)

Existing law states that the state may not deny or interfere with a person's right to choose or obtain an abortion prior to viability of the fetus or when the abortion is necessary to protect the life or health of the person. (Health & Safe. Code, § 123462, subd. (c), 123466.)

Existing law prohibits under the Confidentiality of Medical Information Act (CMIA), providers of health care, health care service plans, or contractors, as defined, from sharing medical information without the patient's written authorization, subject to certain exceptions. (Civ. Code § 56, et seq.)

Existing federal law states that a person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime. (U.S. Const., art. IV, sec. 2, cl. 2.)

Existing law states that it is the duty of the Governor of this state to have arrested and delivered up to the executive authority of any other state any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state. (Pen. Code, § 1548.1).

Existing law states that, notwithstanding specified state laws, the Governor's Office must decline any request received from the executive authority of any other state to issue a warrant for the arrest or surrender of any person charged with a criminal violation of a law of that other state where the violation alleged involves the provision, receipt, or assistance with reproductive health care services, unless required by the U.S. Constitution or the acts forming the basis of the prosecution of the crime charged would also constitute a criminal offense under the laws of California. (Governor's Exec. Order N-12-22 (June 27, 2022).)

This bill prohibits a state or local law enforcement agency or officer from knowingly arresting or knowingly participating in the arrest of any person who the Governor has declined to surrender, on the demand of the executive authority of any other state, pursuant to the state's extradition statute.

This bill expands existing law—that prohibits a state or local law enforcement agency or state court from arresting or participating in the arrest of, cooperating with, or providing information to, or imposing criminal or civil penalty on, any person performing, supporting, or aiding in the performance of a legally protected health care activity, in this state, or obtaining a legally protected health care activity, in this state, if the legally protected healthcare activity is lawful in this state—to include patients not located in California.

This bill expands existing law—that prohibits a state or local law enforcement officer or agency or a state or local public agency or employee, from cooperating with, or providing information to, another state or federal agency, as specified, about a legally protected healthcare activity that is lawful in California—to include patients not located in California.

This bill expands existing law—that states that any law of another state that authorizes the imposition of civil or criminal penalties related to an individual performing, supporting, or aiding in the performance of a legally protected health care activity, in this state, or an individual obtaining a legally protected health care activity, in this state, if the legally protected health care activity is lawful under the laws of this state, is against the public policy of this state—to include patients not located in California.

This bill expands existing law—that states that no state court, judicial officer, or court employee or clerk, or authorized attorney shall issue a subpoena pursuant to any state law in connection with a proceeding in another state regarding an individual performing, supporting, or aiding in the performance of a legally protected health care activity, in this state, or an individual obtaining a legally protected health care activity, in this state, if the legally protected health care activity is lawful under the laws of this state—to include patients not located in California.

This bill mandates that an out-of-state warrant, subpoena, or wiretap order based on a declaration stating various grounds for the discovery of information, as specified, be filed under penalty of perjury.

This bill prohibits a California corporation that provides financial services to the general public from complying with an out-of-state subpoena, warrant, wiretap order, pen register trap and trace order, other legal process, or request by a law enforcement agent or entity seeking records that would reveal the identity of the customers using those services, data stored by or on

behalf of the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications, unless the out-of-state subpoena, warrant, wiretap order, pen register trap and trace order, other legal process, or request from law enforcement includes the affidavit or declaration as described above. States that a corporation subject to this subdivision is entitled to rely on the representations made in the affidavit or declaration.

This bill defines "financial services" to mean services provided by an entity that receives deposits, extends credit, conducts fund transfers, or transports cash or financial instruments.

This bill authorizes DOJ to commence an action to enforce the requirements of Penal Code section 13778.3, described above, including, but not limited to an application or motion for an order enjoining ongoing or future violations. States that DOJ shall not commence that action unless DOJ has reason to believe the defendant or respondent intends to comply or has complied with, or intends to provide information in response to or has provided information in response to, an inquiry, investigation, subpoena, or summons regarding legally protected health care activity.

This bill mandates that any action brought by DOJ, as specified, be commenced within six years of the date on which DOJ received the notice of the inquiry, investigation, subpoena, or summons at issue.

This bill states that, notwithstanding any law to the contrary, DOJ may seek any other legal or equitable remedy lawfully available.

This bill states that the court of this state shall assess a statutory penalty of ten thousand dollars (\$10,000) for the first violation and fifteen thousand dollars (\$15,000) for the second and each subsequent violation against any person or entity found to have intentionally, knowingly, willingly, or recklessly complied with or provided information in response to an inquiry, investigation, subpoena, or summons regarding legally protected health care activity in violation of this section. States that these penalties shall be in addition to any other legal or equitable remedy lawfully available. States that DOJ shall be awarded all attorney's fees and costs in any civil action in which a court imposes any of the penalties described in this section.

COMMENTS

1. Need for This Bill

The author writes:

AB 1854 continues California's commitment to defend reproductive health care freedoms by strengthening California's shield laws to better stop out-of-state anti-legally protected health care activity prosecutions and extradition attempts at our border. At a time when anti-legally protected health care activity states are targeting those who legally provide or receive reproductive health care in California, it's vital we fortify our protections.

2. Attacks on Gender-Affirming Care and Reproductive Rights

a. Gender-Affirming Care

In the past few years, numerous states have introduced legislation targeting transgender individuals in an attempt to prohibit or limit their ability to obtain gender-affirming care. More recently, on the first day of President Trump's second term, he issued an executive order titled "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government" which states that "the United States recognizes two sexes, male and female."¹

In 2025, the federal DOJ announced that it had sent more than 20 subpoenas to doctors and clinics providing gender-affirming health care to minors.² Along with other states, California's Attorney General has worked to prevent the federal government and out-of-state officials from obtaining these kinds of records.³ However, the California DOJ's ability to successfully prevent disclosure is directly tied to the Attorney General having the authority to intervene in disputes regarding the provision of this information, and having notice of an inquiry in the first instance.

Since then, the President has issued one executive order banning transgender girls and women from participating in women's sports and another order banning the use of federal funding for youth gender-affirming care, including funding for research on gender-affirming care.⁴ Although some of these orders are currently being challenged in court, the outcome of those cases is uncertain. The Trump Administration has also rescinded all existing federal policies protecting transgender people from sex and disability discrimination; revoked the ability to obtain passports and federal documents reflecting their gender identity; denied transition-related healthcare to federal employees; and directed federal prisons to deny medical treatment and house transgender people according to sex assigned at birth.⁵

Some California healthcare providers are beginning to scale back care for transgender youth, following efforts by the Trump administration to restrict access to such care. Stanford is the second provider in this state that has begun restricting gender-affirming health care because of the recent actions of the Trump administration. Stanford recently issued the following statement on the matter:

¹ Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan. 20, 2025), available at <<https://www.federalregister.gov/documents/2025/01/30/2025-02090/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal>>.

² U.S. Department of Justice, *Department of Justice Subpoenas Doctors and Clinics Involved in Performing Transgender Medical Procedures on Children*, (Jul. 9, 2025) available at: <<https://www.justice.gov/opa/pr/department-justice-subpoenas-doctors-and-clinics-involved-performing-transgender-medical>>.

³ See California Department of Justice, *Attorney General Bonta Joins Multistate Opposition to U.S. DOJ's Attempt to Subpoena Gender-Affirming Care Records*, (Oct. 22, 2025) available at: <<https://oag.ca.gov/news/press-releases/attorney-general-bonta-joins-multistate-opposition-us-doj%E2%80%99s-attempt-subpoena>>.

⁴ See Exec. Order No. 14201, 90 Fed. Reg. 9279 (Feb. 5, 2025), available at <<http://www.federalregister.gov/documents/2025/02/11/2025-02513/keeping-men-out-of-womens-sports>>; Exec. Order No. 14187, 90 Fed. Reg. 8771 (Jan. 28, 2025), available at <<https://www.federalregister.gov/documents/2025/02/03/2025-02194/protecting-children-from-chemical-and-surgical-mutilation>>.

⁵ Jennifer Levi, GLAD Law, *From the Front Lines: The Fight for Transgender Rights Is a Fight for Democracy*, (Feb. 10, 2025), available at <<https://www.glad.org/the-fight-for-transgender-rights-is-a-fight-for-democracy/>>.

After careful review of the latest actions and directives from the federal government and following consultations with clinical leadership, including our multidisciplinary LGBTQ+ program and its providers, Stanford Medicine paused providing gender-related surgical procedures as part of our comprehensive range of medical services for LGBTQ+ patients under the age of 19, effective June 2, 2025.⁶

b. Reproductive Rights

In 2022, the U.S. Supreme Court published its opinion in *Dobbs v. Jackson Women's Health* (2022) 597 U.S. 215, overturning 50 years of precedent and revoking, for the first time, a constitutional right. Prior to *Dobbs*, the Supreme Court had continuously upheld the holding of *Roe v. Wade*, that found the implied constitutional right to privacy extended to a person's decision whether to terminate a pregnancy, while allowing some state regulation of abortion access as permissible. (*Roe v. Wade* (1973) 410 U.S. 113.)

In the wake of *Dobbs*, numerous states now have laws prohibiting or severely limiting abortion and have enacted laws attempting to punish those who seek safe and reliable reproductive healthcare in states where it is still legal to seek abortion care. According to the Guttmacher Institute, 16 states have effectively banned abortion and another 10 have become very restrictive or restrictive.

In 1969, the California Supreme Court held that the state constitution's implied right to privacy extends to an individual's decision about whether or not to have an abortion. (*People v. Belous* (1969) 71 Cal.2d 954.) This was the first time an individual's right to abortion was upheld in a court. In 1972, the California voters passed a constitutional amendment that explicitly provided for the right to privacy in the state constitution. (Prop. 11, Nov. 7, 1972 gen. elec.)

The Reproductive Privacy Act includes findings and declarations that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy; therefore, it is the public policy of the State of California that every individual has the fundamental right to choose or refuse birth control, and every individual has the fundamental right to choose to bear a child or to choose to obtain an abortion. (Health & Saf. Code, § 123462.)

In response to the *Dobbs* decision and federal attacks on gender-affirming care, California enacted legislation expanding, protecting, and strengthening access to reproductive health care and gender-affirming care for all Californians and people seeking such care in our state. In 2022, AB 2091 (Bonta), Chapter 628, Statutes of 2022, prohibited providers, health care service plans, contractors, and employers from releasing medical information related to abortion services or information related to a person allowing a minor to receive gender-affirming health care and gender-affirming mental health care in response to a subpoena/investigation-related request, as specified. AB 1666 (Bauer-Kahan), Chapter 42, Statutes of 2022, prohibited California courts from applying another state's laws authorizing civil action for receiving, seeking, providing, and/or aiding abortion in deciding the cases before them or from enforcing civil judgments under those laws, and designating those laws as contrary to California public policy, among other provisions. Additionally, the voters overwhelmingly approved Proposition 1 (Nov. 8, 2022 gen.

⁶ See KTVU Staff, "Stanford No Longer Providing Gender-Affirming Surgeries for Children," *KTVU FOX 2*, June 25, 2025, <<https://www.ktvu.com/news/stanford-no-longer-providing-gender-affirming-surgeries-children>>.

elec.), and enacted an express constitutional right in the State Constitution that prohibits the state from interfering with an individual's reproductive freedom in their most intimate decisions.

Furthermore, SB 107 (Wiener), Chapter 810, Statutes of 2022, enacted various safeguards against the enforcement of other states' laws that purport to penalize individuals from obtaining gender-affirming care that is legal in California. SB 497 (Wiener), Chapter 764, Statutes of 2025, added to those protections.

SB 345 (Skinner), Chapter 260, Statutes of 2023, provided safeguards for professional licenses of California healthcare providers from out-of-state statutes attempting to punish these professionals for providing care legal in the state. Finally, AB 82 (Ward), Chapter 679, Statutes of 2025, expanded safe haven protections against adverse action for aiding and assisting the access of legally protected health care activities in California, prohibited the reporting of testosterone and mifepristone to California's Prescription Drug Monitoring Program (PDMP), and required bail to be set at zero dollars for an individual who has been arrested in connection with a proceeding in another state regarding the individual performing, supporting, or aiding in the performance of a legally protected health care activity.

3. Extradition

The right to extradition is established by the U.S. Constitution, which provides:

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime. (U.S. Const., art. IV, sec. 2, cl. 2.)

California's extradition statute states that it is the duty of the Governor to have arrested and delivered up to the executive authority of any other state any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this State. (Pen. Code, § 1548.1).

Extradition is designed to provide a summary executive process by which states may promptly aid one another in bringing to trial persons accused of crime who have sought asylum (fled to another state) against the processes of justice (*Biddinger v. Commissioner of Police* (1917) 245 U.S. 128, 132.) Under this constitutional provision, extradition is not a matter of mere comity, but an absolute right of the demanding state and duty of the asylum state. (*In re Russell* (1975) 12 Cal.3d 229, 234).

It remains untested whether another state may sue California for enforcement of an extradition warrant for providing abortion services or gender-affirming care either from this state or in another state. As explained below, requesting states may also allege a violation of the Full Faith and Credit Clause.

4. Relevant Existing Protections for Protected Health Care Activities

Existing law, Penal Code section 13778.3, prohibits a state or local government employee, a person or entity contracted by a state or local government, or a person or entity acting on behalf of a local or state government from cooperating with or providing information to any individual or out-of-state agency or department regarding any legally protected health care activity. The

state or local government agency may not expend or use time, moneys, facilities, property, equipment, personnel, or other resources in furtherance of any investigation or proceeding that seeks to impose civil or criminal liability or professional sanctions upon a person or entity for any legally protected health care activity that occurred in this state or that would be legal if it occurred in this state. (Pen. Code, § 13778.3, subd. (b).)

Additionally any out-of-state subpoena, warrant, wiretap order, pen register trap and trace order, legal process, or request from any law enforcement agent or entity shall include an affidavit or declaration under penalty of perjury that the discovery is not in connection with an out-of-state proceeding relating to any legally protected health care activity unless the out-of-state proceeding meets all of the following requirements:

- Is based in tort, contract, or on statute.
- Is actionable, in an equivalent or similar manner, under the laws of this state.
- Was brought by the patient who received a legally protected health care activity or the patient's legal representative. (Pen. Code, § 13778.3, subd. (d).)

Finally, a California corporation that provides electronic communication services or remote computing services to the general public may not comply with an out-of-state subpoena, warrant, wiretap order, pen register trap and trace order, other legal process, or request by a law enforcement agent or entity seeking records that would reveal the identity of the customers using those services, data stored by or on behalf of the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications—unless the out-of-state subpoena, warrant, wiretap order, pen register trap and trace order, other legal process, or request from law enforcement includes the affidavit or declaration as described above. A corporation subject to this subdivision is entitled to rely on the representations made in the affidavit or declaration. (Pen. Code, § 13778.3, subd. (f).)

5. Constitutional Issues

a. Full Faith and Credit Clause

The Full Faith and Credit Clause of the United States Constitution states:

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof. (U.S. Const., art. IV, sec. 1.)

Because this bill prohibits government actors in this state from cooperating with another state for the purpose of enforcing another state's laws on what we characterize as "legally protected healthcare activity," it potentially implicates the Full Faith and Credit Clause. Generally, the laws of the state regulate conduct that occurs within that state. However, situations may arise where more than one state's laws may apply.

The purpose of the Full Faith and Credit Clause "is to alter the status of the several states as independent foreign sovereignties, each free to ignore obligations created under the laws or by the judicial proceedings of the others, and to make them integral parts of a single nation

throughout which a remedy upon a just obligation might be demanded as of right, irrespective of the state of its origin.” (*Baker v. General Motors Co.* (1998) 522 U.S. 222, 232.)

The Supreme Court has also made a distinction between the strength of the Full Faith and Credit Clause’s applications to judgments versus state law:

The Full Faith and Credit Clause does not compel “a state to substitute the statutes of other states for its own statutes dealing with a subject matter concerning which it is competent to legislate. Regarding judgments, however, the full faith and credit obligation is exacting. A final judgment in one State, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land.” (*Baker v. General Motors Co.*, *supra*, 522 U.S. at 232-233.)

This concept is often referred to as the “public policy exception” meaning statutes in one state are given effect only if they do not contravene the public policy of the other state. If this bill were challenged based on the Full Faith and Credit Clause, California would argue that enforcing the anti-reproductive criminal statutes of other states is contrary to the public policy of California.

b. Extraterritorial Jurisdiction

This bill attempts to address situations where another state might prosecute someone for conduct that occurred in California—or in another third state. The Supreme Court has held “a state does not acquire power or supervision over the internal affairs of another State merely because the welfare and health of its own citizens may be affected when they travel to that State.” (*Bigelow v. Virginia* (1975) 421 U.S. 809, 824.) *Bigelow* involved a Virginia newspaper editor who was convicted in Virginia for printing an advertisement for an abortion referral service in New York. The Supreme Court overturned the conviction.

However, other cases do not follow a strict prohibition on the application of one state’s laws on another state. The Supreme Court has also held that even when criminal conduct takes place outside of the state, extraterritorial jurisdiction may be proper when the conduct was intended to produce or did produce harmful effects within the state. (*Strassheim v. Daily* (1911) 221 U.S. 280.)

6. Effect of This Bill

This bill prohibits a state or local law enforcement agency or officer from knowingly arresting or knowingly participating in the arrest of any person who the Governor has declined to surrender, on the demand of the executive authority of any other state, pursuant to the state’s extradition statute.

Furthermore, this bill expands existing protections of Penal Code section 13778.3, described above, to cover patients not located in California. This bill also mandates an out-of-state warrant, subpoena, or wiretap order based on a declaration as described above be signed under penalty of perjury.

This bill additionally prohibits a California corporation that provides *financial services* to the general public from complying with an out-of-state subpoena, warrant, wiretap order, pen

register trap and trace order, other legal process, or request by a law enforcement agent or entity seeking records that would reveal the identity of the customers using those services, data stored by or on behalf of the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications, unless the out-of-state subpoena, warrant, wiretap order, pen register trap and trace order, other legal process, or request from law enforcement includes the affidavit or declaration as described above. This bill defines "financial services" to mean services provided by an entity that receives deposits, extends credit, conducts fund transfers, or transports cash or financial instruments.

This bill authorizes DOJ to commence an action to enforce the provisions of Penal Code section 13778.3, described above, including but not limited to an application or motion for an order enjoining ongoing or future violations. The Attorney General may not commence that action unless the Attorney General has reason to believe the defendant or respondent intends to comply or has complied with, or intends to provide information in response to or has provided information in response to, an inquiry, investigation, subpoena, or summons regarding legally protected health care activity. This bill mandates that any action brought by DOJ, as specified, be commenced within six years of the date on which DOJ received the notice of the inquiry, investigation, subpoena, or summons at issue. Notwithstanding any law to the contrary, DOJ may seek any other legal or equitable remedy lawfully available.

This bill states that a court must assess a statutory penalty of \$10,000 for the first violation and \$15,000 for the second and each subsequent violation against any person or entity found to have intentionally, knowingly, willingly, or recklessly complied with or provided information in response to an inquiry, investigation, subpoena, or summons regarding legally protected health care activity in violation of this section. These penalties are in addition to any other legal or equitable remedy lawfully available, and DOJ must be awarded all attorney's fees and costs in any civil action in which a court imposes any of the penalties outlined in the bill's provisions.

7. Argument in Support

Planned Parenthood Affiliates of California write:

Following the *Dobbs* decision, states hostile to reproductive health care have enacted laws that criminalize or impose civil liability on individuals who provide, receive, or assist in obtaining abortion care and, increasingly, gender affirming care. In response, California voters approved Proposition 1 enshrining the right to abortion in the state's constitution and then enacted a series of "shield laws" designed to protect patients, providers, and facilitators of lawful care within the state. Despite these protections, out-of-state actors have continued to pursue aggressive enforcement strategies targeting California-based providers and entities. These efforts include issuing subpoenas, criminal investigations, seeking medical records, initiating civil actions, and attempting extradition of California providers for conduct that is lawful in California.

AB 1854 strengthens existing provider protections by prohibiting law enforcement from arresting someone if the Governor refuses an extradition request, and by ensuring that a California corporation providing financial services to the public may not comply with an out-of-state legal demand related to legally protected health care activity unless the request includes the required affidavit or

declaration. These changes account for the ever-evolving tactics used by anti-abortion entities and states that are hostile to abortion and gender affirming care. This bill will help to safeguard access to lawful sexual and reproductive health care and protect the privacy and safety of patients and providers.

8. Argument in Opposition

The California Chamber of Commerce writes:

Simply put - most recent amendments appear to broaden the scope of the bill to now cover the conduct of a multi-state company which is occurring in, and governed by, another state's laws. We are concerned that this puts businesses in an impossible scenario where complying with a subpoena that is proper under another state's laws (say, Texas) will be in violation of California's laws, and subject to a suit by the CA AG to compel them not to comply with a proper subpoena in Texas. This places the business in an impossible position – and though we understand the political and health concerns that the bill seeks to protect, we are concerned that our members will face sanctions in one state or the other when they are forced into this position.

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