SENATE COMMITTEE ON PUBLIC SAFETY
Senator Jesse Arreguín, Chair
2025 - 2026 Regular

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Author:	Zbur		
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Consultant:	ML		

Subject: ***Abortion or gender-affirming health care services: investigations, subpoenas, or summons***

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: Bet Tzdek Legal Services; Electronic Frontier Foundation; Equality California; LGBTQ+ Inclusivity, Visibility, and Empowerment; Oakland Privacy

Opposition: California Chamber of Commerce; California Family Council; California Hospital Association; California Teachers Supporting Gender Non-Conforming Youth; Cause: California United for Sex-Based Evidence in Policy and Law; Democrats for an Informed Approach to Gender; LGB Alliance USA; Our Duty; Women are Real; Women's Liberation Front

Assembly Floor Vote: 60 - 17

PURPOSE

The purpose of this bill is to limit when a person or entity may provide information regarding another's legally protected health care activities in response to various types of inquiries.

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 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 provides that "gender-affirming health care" and "gender-affirming mental health care" shall have the same meaning as 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 which includes, but is not 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 the DOJ specified information related to anti-reproductive-rights crimes. (Pen. Code, § 13777, subd. (a)(2).)

Existing law requires the 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 every law enforcement agency in this state to 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 an abortion in this state, or obtaining an abortion in this state, if the abortion is lawful under the laws of this state. (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 an abortion that is lawful under the laws of this state and that is performed in this state. (Pen. Code, § 13778.2, subd. (b).)

Existing law provides 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 an abortion in this state, or an individual obtaining an abortion in this state, if the abortion 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, or 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 an abortion in this state, or an individual obtaining an abortion in this state, if the abortion is lawful under the laws of this state. (Pen. Code, § 13778.2, subd. (c)(2).)

Existing law provides that the investigation of any criminal activity in this state that may involve the performance of an abortion 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 abortion law. (Pen. Code, § 13778.2, subd. (d).)

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 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 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 provides 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 & Saf. 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.)

This bill prohibits a person or entity that is located, headquartered, incorporated, or otherwise conducting business in California and receives, is served with, or is subject to a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons for information regarding abortion or gender-affirming health care services from complying with the request unless all of the following conditions are met:

- Except for an investigation, subpoena, or summons issued by an agency of the federal government, the inquiry, investigation, subpoena, or summons contains or is accompanied by an affidavit under penalty of perjury attesting any of the following:
    - It is not related to, and that any information obtained shall not be used in, any investigation or proceeding that seeks to impose civil or criminal liability, professional sanctions, or any other legal consequences upon a person or entity for engaging in any legally protected health care activity.
    - It is related to an investigation or proceeding regarding activity that is unlawful under California civil or criminal law, and it identifies the California law under which the activity is unlawful.
    - It is related to an investigation or proceeding regarding activity that is grounds for professional discipline in California, and it identifies the grounds for professional discipline.
- The person or entity receiving or subject to the inquiry, investigation, subpoena, or summons regarding legally protected health care activity has done both of the following:
    - Provided notice to the DOJ within seven days of receiving the inquiry, investigation, subpoena, or summons indicating whether the person or entity intends to comply with or provide information in response to the inquiry, investigation, subpoena, or summons. The notice shall include a copy of the inquiry, investigation, subpoena, or summons, and any related materials.
    - Made reasonable attempts to notify the individual or individuals who provided, sought, received, facilitated, or otherwise engaged in the legally protected health care activity to which the inquiry, investigation, subpoena, or summons pertains at least 30 days prior to providing any responsive information, unless otherwise ordered by a court of competent jurisdiction.

- A minimum of 30 days has passed since the person or entity notified the Attorney General (AG) of the inquiry, investigation, subpoena, or summons.

This bill authorizes the DOJ to commence a civil action against a person or entity that submits a false affidavit pursuant to this bill's provisions.

This bill provides that the submission of a false affidavit pursuant to this bill's provisions is punishable by a civil penalty up to $15,000.

This bill authorizes the DOJ to commence an action to enforce the provisions of this bill, including but not limited, to an application or motion for an order enjoining ongoing or subsequent violations of this bill. Specifies that the DOJ cannot bring such an action unless the DOJ has reason to believe the defendant intends to comply or has complied with an inquiry, investigation, subpoena, or summons regarding legally protected health care activity.

This bill states that the DOJ may intervene in an action where a person or entity that is located, headquartered, incorporated, or otherwise conducting business in California receives, is served with, or is subject to a civil, criminal, or regulatory investigation, subpoena, or summons for information regarding abortion or gender-affirming health care services institutes a civil action to protect against compliance with or the providing information in response to the investigation, subpoena, or summons.

This bill requires a court of this state to assess a statutory penalty of $10,000 for the first violation and $15,000 for each subsequent violation against any person or entity found to have intentionally, knowingly, willingly, or recklessly complied with an inquiry, investigation, subpoena, or summons for information regarding legally protected health care activity in violation of the bill's provisions.

This bill specifies that these statutory penalties can be assessed in addition to any other legal or equitable remedies at law.

This bill requires an action brought by the DOJ pursuant to this bill's provisions to be commenced within six years of the date on which the Attorney General received the notice of the inquiry, investigation, subpoena, or summons at issue.

This bill requires a court to award court costs and attorneys' fees to the DOJ in any civil action in which the court imposes any penalty authorized by this section.

COMMENTS

1. Need for This Bill

The author writes:

> Across the country, we are seeing increasing efforts to bully and intimidate patients and providers who deliver or need reproductive health care and gender-affirming care. Out-of-state subpoenas have raised serious concerns about privacy, and threaten not only the safety of patients, but also the safety of providers and their ability to continue practicing. In the case of Children's

Hospital LA, a subpoena contributed to the closure of the hospital's Center for Trans Youth Health and Development and Gender-Affirming Care Program, devastating families and drastically reducing access to health care for transgender patients across the region.

AB 1930 will help the Attorney General defend health care access and enforce California's protected health activities laws for all who provide and receive care in California. Specifically, this bill will protect transgender patients and all patients receiving gender-affirming care, patients who receive abortion care services, and their health care providers by requiring business entities in California to notify the Attorney General before they respond to a subpoena or summons regarding legally protected health care activity. This bill will also authorize the Attorney General to intervene. Together, this will allow the Attorney General to know when protected healthcare is under attack and protect all those who seek and provide this kind of care in California.

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 AG 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 AG 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

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[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

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:

> 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 health care 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

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<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/>.

[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>.

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. 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.

SB 107 (Wiener), Chapter 810, Statutes of 2022, enacted additional 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 that is 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. 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 must 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).)

4. 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.)

c. Supremacy Clause

Article VI, Clause 2 of the United States Constitution, generally referred to as the Supremacy Clause, provides that the U.S. Constitution and federal law is the supreme law of the United States. In other words, "when federal and state law conflict, federal law prevails and state law is preempted." (*See Murphy v. NCAA* (2018) 584 U.S. 453, 471.) Similarly, states are generally forbidden from imposing state legal requirements on the federal government. This prohibition potentially implicates the affidavit required by this bill.

However, the bill states that entities may comply with an investigation, subpoena, or summons if "ordered to by a court of competent jurisdiction," which would include a federal court. Additionally, the bill exempts "an investigation, subpoena, or summons issued by an agency of the federal government." These provisions likely address concerns that entities would otherwise be forced to choose between violating state and federal law when following this bill.

5. Effect of This Bill

This bill establishes procedural safeguards if a California entity plans to respond to a subpoena or summons regarding abortion care or gender-affirming healthcare. Before an entity complies, they must:

- Verify the inquiry contains an affidavit stating that it is not related to any proceeding that seeks to impose liability for engaging in abortion care or gender-affirming healthcare;
- Notify the AG of the inquiry within seven days of receiving it;

- Make reasonable attempts to notify any individuals who the inquiry pertains to within 30 days of receiving the notification, and
- Respond no less than 30 days after notification of the AG.

This bill also gives the AG authority to both intervene and to enforce the provisions of the bill, including through civil action and civil penalties.

Specifically, the bill prohibits, notwithstanding any other law, a person or entity that is located, headquartered, incorporated, or otherwise conducting business in California and receives, is served with, or is subject to a civil, criminal, or regulatory investigation, subpoena, or summons for information regarding abortion or gender-affirming health care services from complying with or providing information in response to the investigation, subpoena, or summons unless ordered by a court of competent jurisdiction or if certain conditions are met. These conditions include that the investigation, subpoena, or summons contains or is accompanied by an affidavit under penalty of perjury attesting that: it is related to an investigation or proceeding regarding activity that is unlawful under California civil or criminal law; it is related to an investigation or proceeding regarding activity that is grounds for professional discipline in California; or it is not related to, and that any information obtained shall not be used in, any investigation or proceeding that seeks to impose civil or criminal liability, professional sanctions, or any other legal consequences upon a person or entity for engaging in any abortion or gender-affirming health care services. The affidavit requirement does not apply to an agency of the federal government.

In addition to the affidavit requirement, the receiver of the request must notify the AG within 7 days of receipt and indicate whether the person or entity intends to comply with or provide information in response. The receiver must also make reasonable attempts to notify the individual or individuals who provided, sought, received, facilitated, or otherwise engaged in the abortion or gender-affirming health care service to which the request pertains at least 30 days prior to providing any responsive information, unless otherwise ordered by a court of competent jurisdiction or required by a federal statute or regulation. The bill requires 30 days to elapse from providing notice to the AG before a response to the request can be provided, unless otherwise ordered by a court of competent jurisdiction or required by a federal statute or regulation.

Notably, as discussed above, existing law already prohibits compliance with out-of-state subpoenas or legal requests unless they contain an affidavit that they are not connection with an out of state proceeding relating to legally protected healthcare activity. (Pen. Code, § 13778.3, subd. (d).) However, this provision only applies to subpoenas and other requests by other states. This bill, on the other hand, applies to federal subpoenas as well. Additionally, the existing law, which applies to other states, contains no requirement that the AG be notified prior to responding, and it contains no 30-day waiting period.

Furthermore , the bill states in Civil Code section 1798.309(a)(1) that: "The inquiry, investigation, subpoena, or summons contains or is accompanied by an affidavit under penalty of perjury attesting to ***any*** of the following… (b) it is related to an investigation or proceeding regarding activity that is unlawful under California civil or criminal law, and it identifies the California law under which the activity is unlawful." This provision could be interpreted to mean that so long as the investigation or proceeding is related to "activity to unlawful under California civil or criminal law," then the investigation or proceeding may proceed under this bill. However, such a proceeding may be related to activity that is unlawful under California law *and*

also criminalize or impose liability for performing or receiving an abortion of gender affirming health care. For example, another state's criminal case may contain charges of both fraud and a crime that criminalizes abortion. To eliminate this loophole, the author and Committee may consider deleting the provisions in section 1798.309(a)(1)(B) and (C). The subpoena required in section 1798.309(a)(1)(A) should be sufficient.

Opposition has raised concerns that these requirements maybe operationally difficult to implement for some organizations, such as hospitals, because the term "investigation" is undefined and could cover any request for information, including routine business inquiries. To address this concern, the author may consider limiting the bill to apply only to subpoenas, summons, discovery requests, or other similar legal requests.

Under the bill, the AG may intervene in an action where a person or entity that is located, headquartered, incorporated, or otherwise conducting business in California receives, is served with, or is subject to a civil, criminal, or regulatory investigation, subpoena, or summons for information regarding abortion or gender-affirming health care services institutes a civil action to protect against compliance with or the providing information in response to the investigation, subpoena, or summons.

The bill provides for civil liability for noncompliance which is enforceable by the AG. The submission of a false affidavit is punishable by a civil penalty of $15,000 in addition to any other remedies or penalties. The AG may commence an action to enforce these provisions, including, but not limited to, an application or motion for an order enjoining ongoing or subsequent violations. The bill specifies that the AG is not to commence an action unless the AG has reason to believe the defendant or respondent intends to comply or has complied with an investigation, subpoena, or summons regarding abortion or gender-affirming health care services. A court is required to assess a statutory penalty of $10,000 for a first violation and $15,000 for each subsequent violation against any person found to have intentionally, knowingly, willingly, or recklessly complied with a request for information. Any action by the AG is to be commenced within six years of the date on which the AG received notice of the request and a court is to award costs and attorney's fees to the AG.

6. Committee Amendments

The author has agreed to take committee amendments proposed by the Senate Judiciary Committee. Due to the timing of the hearings, these amendments will be adopted in this Committee. These amendments add the following language to section 1798.309:

> (a) Notwithstanding any other law, a person or entity that is located, headquartered, incorporated, or otherwise conducting business in California and receives, is served with, or is subject to a civil, criminal, or regulatory investigation, subpoena, or summons for information regarding abortion or gender-affirming health care ***that is legally protected health care activity secured by the Constitution or laws of California*** shall not comply with or provide information in response to the investigation, subpoena, or summons unless ordered by a court of competent jurisdiction or all of the following conditions are met:

This amendment is intended to address concerns that the bill was not sufficiently tied jurisdictionally to California.

According to Judiciary Committee staff, the author has agreed to lower the time limits in the bill to both notify AG and withhold responding to request.

7. Argument in Support

Bet Tzedek Legal Services writes:

> Medical records related to gender-affirming care reveal some of the most sensitive information about a person's life, including diagnoses, medications, mental health treatment, provider relationships, family circumstances, prior names, gender identity, and care history. Recent events show hostile out-of-state actors improperly using the judicial system to target these records as part of a broader campaign against lawful gender-affirming care. Federal courts reviewing these improper demands have recognized the lack of legitimate justification, with one court concluding the subpoena seeking TGI patient records was "a pretext to fulfill the Executive's well-publicized policy objective to terminate and block gender affirming healthcare."
>
> In California, we are aware of at least three hospitals that have received either a civil administrative subpoena or federal grand jury subpoena from the U.S. Department of Justice seeking records that would identify patients either receiving or have received gender-affirming care: Children's Hospital Los Angeles, Lucile Salter Packard Children's Hospital at Stanford, and Rady Children's Hospital. State-wide advocates reasonably believe other providers in California have received a similar subpoena but, because current California law does not require pre-disclosure notification to patients, it has been impossible to confirm.
>
> AB 1930 supplies the missing pre-disclosure safeguard. By requiring notice to the Attorney General, reasonable attempts to notify affected patients, and time for review before compliance, AB 1930 creates a meaningful opportunity for affected patients to assess the request, challenge overbroad or improper demands, and prevent sensitive medical information from being turned over before patients and the State have a chance to act.

8. Argument in Opposition

The California Hospital Association writes:

> Existing California law already prohibits health care providers from producing patient records in response to an out-of-state subpoena, summons, or other discovery request unless the request has first been made legally valid and enforceable in California, a process known as "domestication." Under current law, a subpoena may not be domesticated in California if it seeks records for the purpose of imposing civil or criminal liability, professional sanctions, or other adverse consequences based on conduct that is lawful in California, including the provision of abortion and gender-affirming care.
>
> **As a result, AB 1930 largely attempts to address a problem that California law has already resolved.** The bill's primary impact would instead be on federal

investigations and oversight activities, while also imposing costly and legally uncertain requirements on routine in-state and out-of-state requests.

…

As a result, hospitals and providers may be placed in the untenable position of choosing between compliance with federal requirements and compliance with California law.

AB 1930 Directly Conflicts with Federal Investigations and Oversight Activities. Hospitals routinely receive requests for information from federal agencies, including the Centers for Medicare & Medicaid Services (CMS), Drug Enforcement Administration, Department of Health and Human Services Office of Inspector General, and others. AB 1930 would prohibit compliance with an investigation, subpoena, or summons unless specified procedural requirements are satisfied, including notice to patients and providers and a 30-day waiting period.

Federal investigations, however, frequently involve confidentiality requirements, non-disclosure obligations, sealed proceedings, expedited production deadlines, or immediate access requirements. The bill's exception for situations wherein disclosure is required by a federal statute or regulation is insufficient. Many federal obligations arise from federal contracts, Medicare participation agreements, administrative processes, or agency authority that may not fit neatly within the bill's exception language. Consequently, providers could face conflicting legal obligations and significant uncertainty regarding when disclosure is permissible.

Importantly, most federal investigations have nothing to do with abortion services or gender-affirming care. Nevertheless, if a requested record contains information only incidentally relating to those services, the bill's requirements would still apply and would interfere with the broader investigation.

…

The Bill's Scope Extends Beyond Formal Legal Process. AB 1930 is not limited to subpoenas or formal discovery requests. The bill would also apply to "investigations," a term that is not defined. Without a clear definition, "investigation" could encompass routine communications such as:

- Emails
- Letters
- Telephone inquiries
- Requests for clarification
- Audits and reviews conducted in the ordinary course of business

This broad and ambiguous scope creates significant uncertainty regarding when the bill's requirements would be triggered. Ordinary communications necessary for patient care, payment, and health care operations could trigger complex legal analysis and time-consuming, expensive notifications that do not protect patient privacy.

Statutory Penalties Create Significant Compliance Risk. For hospitals that are not able to comply with the requirements outlined above, AB 1930 would authorize:

- Attorney general enforcement actions
- Injunctive relief
- Civil penalties
- Attorney's fees

Health care providers could face substantial liability for making good faith decisions when responding to complex and often time-sensitive federal requests for information. The threat of state penalties would create unnecessary litigation and further uncertainty over routine document production requests.

-- END --