

SENATE THIRD READING

SB 497 (Wiener)

As Amended May 23, 2025

2/3 vote. Urgency

SUMMARY

Clarifies and strengthens existing law to further protect from harmful disclosure information about gender-affirming health care or gender-affirming mental health care, including in response to a subpoena or request based upon another state's law that seeks to punish persons who provide or facilitate the provision of gender-affirming health care or gender-affirming mental health care.

Major Provisions

- 1) Finds and declares on behalf of the Legislature that California residents and visitors, especially transgender and gender nonconforming people, are being targeted for harassment, intimidation, and other harm, as are family members, teachers, and others who support them. The Legislature intends to comprehensively protect these Californians and visitors from both in-state and out-of-state abuse, including from individuals purporting to act on behalf of the United States Government.
- 2) States that it is the intent of the Legislature to ensure that educators that may face retaliation or prosecution under President Trump's Executive Order on Ending Radical Indoctrination in K–12 Schooling for prioritizing the safety and well-being of transgender youth are protected.
- 3) Extends existing prohibitions against the disclosure of information related to gender-affirming health care or gender-affirming mental health care by a provider of health care, health care service plan, or contractor in response to a civil action based upon another state's law authorizing a person to bring a civil action against a person or entity for *allowing* a child to receive gender-affirming health care or gender-affirming mental health care so that those prohibitions would also apply to: (1) a subpoena or request for the information; and (2) information about a person *seeking or obtaining* gender-affirming health care or gender-affirming mental health care.
- 4) Extends the prohibitions against the disclosure of information that are described in 3), which now apply to laws in other states authorizing civil actions against a person or entity for allowing a child to receive gender-affirming health care or gender-affirming mental health care, to apply to: (1) laws in other states that interfere with an individual's right to seek or obtain gender-affirming health care or gender-affirming mental health care; and (2) laws in other states that authorize a person to bring a criminal action against a person or entity that allows a child to receive gender-affirming health care or gender-affirming mental health care.
- 5) Prohibits a provider of health care, health care service plan, contractor, or employer from doing either of the following:
 - a) Cooperating with any inquiry or investigation by, or providing medical information to, any individual, agency, or department from another state that would identify an individual and that is related to an individual seeking or obtaining gender-affirming health care or gender-affirming mental health care that is lawful under the laws of this state.

- b) To the extent permitted by federal law, cooperating with any inquiry or investigation by, or providing medical information to a federal law enforcement agency that would identify an individual and that is related to an individual seeking or obtaining gender-affirming health care or gender-affirming mental health care that is lawful under the laws of this state.
- 6) Clarifies that 5) does not prohibit compliance with the investigation of activity that is punishable as a crime under the laws of this state.
- 7) Defines, for purposes of the above, "person" to mean an individual or governmental subdivision, agency, or instrumentality.
- 8) Extends the prohibition on an attorney licensed in California from issuing a California subpoena to validate an out-of-state subpoena that is based upon another state's laws that interfere with a person right to allow a child to receive gender-affirming health care or mental health care to apply to another state's laws that interfere with a person's right to obtain gender-affirming health care or gender-affirming mental health care.
- 9) Prohibits a state or local agency or employee, appointee, officer, contractor, or official or any other person acting on behalf of a public agency from knowingly providing any CURES data or knowingly expending or using time, money, facilities, property, equipment, personnel, or other resources in furtherance of any interstate investigation or proceeding seeking to impose civil, criminal, or disciplinary liability upon the provision or receipt of legally protected health care activity.
- 10) Clarifies that 9), and provisions of existing law that limit access and dissemination of CURES data, does not prohibit the investigation of any activity that is punishable as a crime under the laws of this state so long as CURES data related to any legally protected health care activity is not knowingly shared with any individual or entity from another state.
- 11) Prohibits an out-of-state authorized user who obtains CURES data through the interstate data sharing hub from providing any CURES data in furtherance of any investigation or proceeding seeking to impose civil, criminal, or disciplinary liability upon the provision or receipt of legally protected health care activity.
- 12) Specifies that the California Department of Justice (DOJ) shall not provide CURES data to out-of-state law enforcement absent a warrant, subpoena, or court order, issued pursuant to specified sections of the Code of Civil Procedure and the Penal Code.
- 13) Provides that any person who accesses the CURES database and who is not authorized by law to do so is guilty of a misdemeanor; and that any person authorized by law to access the CURES database and who knowingly furnishes the information from the CURES database to a person who is not authorized by law to receive that information is guilty of a misdemeanor. Clarifies that this provision does not apply to a provider of health care that is subject to applicable state and federal medical privacy laws.
- 14) Allows the DOJ to adopt regulations to implement the changes affecting the CURES database, above.
- 15) Includes a severability clause and an urgency clause.

COMMENTS

This bill, co-sponsored by Planned Parenthood, Equality California, and The California Legislative LGBTQ Caucus, bolsters existing prohibitions against disclosure of the information related to gender-affirming health care and mental health care in several ways.

First, it clarifies that existing prohibitions against the disclosure of information by a provider of health care, health care service plan, or contractor in response to any *civil action* in another state also apply to a *subpoena or request* for information needed in that civil action. This change is unlikely to greatly expand the law. For example, Code of Civil Procedure (CCP) Section 2029.200(f) defines "subpoena" as a document, however denominated, issued under authority of a court of record requiring a person to do any of the following: (1) Attend and give testimony at a deposition; (2) Produce and permit inspection, copying, testing, or sampling of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or (3) Permit inspection of premises under the control of the person. Civil Code Section 56.10 specifies that a provider of health care, a health care service plan, or a contractor shall *only* disclose medical information if the disclosure is *compelled* by specific means, including "a court order" (which basically meets the definition of a subpoena in CCP Section 2029.200(f)). Furthermore, any court order for disclosure of documents that was issued in another state would be subject to the requirements of the Interstate and International Depositions and Discovery Act process set forth in CCP Section 2029.100 *et seq.*, as described above. Likewise, any "request" for the information - whether written or oral - could not compel disclosure of medical information under existing law, unless it was from the patient or in the form of a "court order" in which case it would be subject to the foreign subpoena process and limits in existing law. While adding the terms "subpoena" and "request" to the code may not significantly change the law, the additions arguably clarify and strengthen the law so that disclosure is specifically prohibited in response to these forms of requests.

Second, the bill expands the types of repressive laws – and the persons whose information may be sought as a result of such laws – that trigger the prohibitions against disclosure of sensitive health care information. Whereas under current law applies to laws in other states authorizing *civil actions* against persons or entities for *allowing a child* to receive gender-affirming health care or gender-affirming mental health care, the bill would extend to laws in other states that interfere with an individual's right to *seek or obtain* their own care. The bill also would apply to all those types of laws that authorize a *criminal action* against a person or entity. Given the scope and expansiveness of some transphobic laws in many states, it makes sense to ensure that both civil and criminal laws focusing on children, parents, providers, and patients are subject to California law.

Third, the bill prohibits a provider of health care, health care service plan, contractor, or employer from cooperating with any inquiry or investigation by, or providing medical information to, any individual, agency, or department from another state that would identify an individual and that is related to an individual seeking or obtaining gender-affirming health care or gender-affirming mental health care that is lawful under the laws of this state. This provision is similar to Section 56.108 of the Civil Code, which has similar protections for individuals seeking or obtaining an abortion or abortion-related services that are lawful under the laws of this state. The bill specifies that it does not prohibit compliance with the investigation of an activity that is punishable as a crime in this state, so long as no medical information related to

gender-affirming health care and gender-affirming mental health care is shared with an out-of-state agency or any other individual.

Fourth, the bill amends the Interstate and International Depositions and Discovery Act to prohibit issuance of a subpoena in this state based upon another state's laws which interfere with a person's right to seek or obtain gender-affirming health care or gender-affirming mental health care. It applies this same prohibition on issuing a subpoena to attorneys in California. Given that reissuance of a foreign subpoena by an attorney who is licensed in California is one method of issuing a subpoena in the state, this provision seems appropriate.

Finally, the bill makes several changes to the law that fall also within the jurisdiction of the Assembly Public Safety Committee. These include changes to the statute governing access to the CURES database, making it a misdemeanor to unlawfully access the database or knowingly furnishing information from the database to someone not authorized to receive that information; and prohibiting a provider of health care, health care service plan, or contractor from cooperating with any inquiry or investigation by, or providing medical information to a federal law enforcement agency regarding an individual seeking or obtaining gender-affirming health care or gender-affirming mental health care that is lawful under the laws of this state.

According to the Author

Attacks on gender affirming health care have skyrocketed across the country. In his first month in office, President Trump has issued two executive orders targeting transgender youth, their families, and their teachers.

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Because California is the national leader in providing protections for sensitive health care, like gender affirming care, many Americans seek refuge here. Our state has a responsibility to do everything in its power to protect those seeking safe and reliable treatment.

California must strongly reject Trump's disgusting efforts to distract from his own incompetent failures by demonizing our transgender neighbors. The President is attempting to eliminate trans people's very existence in the eyes of the law, and he has made clear he is willing to violate laws and norms to target them. We must do all we can to prevent him, his lawless administration, and his cruel extremist allies from abusing Californians' sensitive medical information. Senate Bill 497 recognizes California's role in prioritizing the safety of those seeking gender affirming health care[.]

Arguments in Support

The California LGBTQ Caucus, co-sponsor of the bill, which is a 2025 Caucus Priority Bill, write that "SB 497 recognizes California's role in prioritizing the safety of those seeking gender-affirming health care and protects individuals seeking medically necessary health care and safety against hostile actors in or out of the state."

Co-sponsor Equality California writes as follows:

SB 497 . . . will further protect the privacy and safety of transgender individuals accessing health care in California. SB 497 will safeguard sensitive patient data by requiring warrants for out-of-state law enforcement to access the state's prescription drug database, and establish criminal penalties for accessing or sharing information from the database without a warrant.

The bill will also prohibit health care providers from complying with subpoenas requiring the disclosure of sensitive medical information about transgender patients. As the Trump administration seeks to prevent transgender people from accessing essential health care, SB 497 will ensure that California continues to lead in safeguarding patient privacy and protecting the transgender community.

Arguments in Opposition

Californians United for Sex-Based Evidence in Policy and Law write:

SB 497 seeks to block access to medical records and ignore lawful custody orders from other states. It further undermines the Full Faith and Credit Clause of the U.S. Constitution under a narrowly and improperly applied "public policy" exception.

...

SB 497 is a declaration of open hostility toward states that have chosen to protect children from these unproven, irreversible interventions. California's defiance of those states' judicial authority invites costly legal conflict. What gives this Legislature the right to override other states' laws or presume superior judgment in protecting children? Where is the evidence that California better serves vulnerable youth than the states whose laws AB 497 seeks to undermine?

By enabling secrecy, SB 497 puts children at risk. Shielding gender clinics and personnel from scrutiny suppresses accountability and erodes trust in the medical system. This bill does not protect patients—it protects institutions that may be causing harm by prioritizing ideology over ethics.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) DOJ reports no significant fiscal impact. However, DOJ indicates there are numerous bills this session with similar impact; if an aggregate of these bills are enacted, DOJ would submit a workload budget change proposal for additional resources for the cumulative increase in DOJ's workload.
- 2) Cost pressures (Trial Court Trust Fund, General Fund) of an unknown but potentially significant amount to the courts to adjudicate violations of the alternate felony-misdemeanor created by this bill. A defendant charged with a misdemeanor or felony is entitled to a jury trial and, if the defendant is indigent, legal representation provided by the government. Actual court costs will depend on the number of violations, prosecutorial discretion, and the amount of court time needed to adjudicate each case. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The fiscal year 2025-26 state budget provides \$82 million ongoing General Fund to the Trial Court Trust Fund for court operations.
- 3) Costs (local funds, General Fund) to the counties to incarcerate people convicted of the misdemeanors created by this bill. Actual incarceration costs will depend on the number of convictions and the length of each sentence. The average annual cost to incarcerate one

person in county jail is approximately \$29,000, though costs are higher in larger counties. County incarceration costs are not subject to reimbursement by the state. However, overcrowding in county jails creates cost pressure on the General Fund because the state has historically granted new funding to counties to offset overcrowding resulting from public safety realignment.

VOTES

SENATE FLOOR: 28-10-2

YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

NO: Alvarado-Gil, Choi, Dahle, Grove, Jones, Niello, Ochoa Bogh, Seyarto, Strickland, Valladares

ABS, ABST OR NV: Hurtado, Reyes

ASM JUDICIARY: 9-2-1

YES: Kalra, Bauer-Kahan, Bryan, Connolly, Harabedian, Pacheco, Papan, Stefani, Zbur

NO: Dixon, Sanchez

ABS, ABST OR NV: Macedo

ASM PUBLIC SAFETY: 7-1-1

YES: Schultz, Mark González, Haney, Harabedian, Nguyen, Ramos, Sharp-Collins

NO: Lackey

ABS, ABST OR NV: Alanis

ASM APPROPRIATIONS: 11-4-0

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache

NO: Sanchez, Dixon, Ta, Tangipa

UPDATED

VERSION: May 23, 2025

CONSULTANT: Alison Merrilees / JUD. / (916) 319-2334

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