



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB4245

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

SYNOPSIS AS INTRODUCED:

See Index

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

LRB102 29069 LNS 40978 b

1 AN ACT concerning human rights.

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

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

6 Section 5. Findings. The General Assembly finds that:

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

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

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

21 (4) This State's commitment to pursuing positive physical
22 and mental health outcomes for gender diverse individuals
23 prevents it from participating in the enforcement of the

1 prejudicial policies of other states that are hostile to
2 gender diverse children and adolescents.

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

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

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

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

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

22 Section 15. Restricted State action.

23 (a) A law of another state that authorizes civil or
24 criminal penalties against any person for providing,

1 authorizing, aiding, assisting, receiving, or otherwise
2 allowing a child to receive gender-affirming care or referring
3 a child for such care, so long as the gender-affirming care
4 that serves as the basis of the warrant is not alleged to have
5 been performed in a manner that violates the laws of this State
6 is contrary to the public policy of this State.

7 (b) The State shall not:

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

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

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

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

1 the laws of this State.

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

4 (725 ILCS 225/4.5 new)

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

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

21 (735 ILCS 5/2-1101) (from Ch. 110, par. 2-1101)

22 Sec. 2-1101. Subpoenas. The clerk of any court in which an

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

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

24 Notwithstanding any law to the contrary, no subpoena shall
25 be issued if the subpoena is based on a violation of another
26 state's laws that interfere with a person's right to allow a

1 child to receive gender-affirming care. As used in this
2 Section, "gender-affirming care" has the same meaning as
3 provided in Section 10 of the Gender-Affirming Health Care
4 Protection Act.

5 (Source: P.A. 95-1033, eff. 6-1-09.)

6 (735 ILCS 5/2-1101.1 new)

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

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

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

25 (c) As used in this Section, "gender-affirming care" has

1 the same meaning as provided in Section 10 of the
2 Gender-Affirming Health Care Protection Act.

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

6 (735 ILCS 35/2)

7 Sec. 2. Definitions. In this Act:

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

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

12 (2.5) "Gender-affirming care" means medically necessary
13 health care that respects the gender identity of the patient,
14 as experienced and defined by the patient, including, but not
15 limited to:

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

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

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

24 (D) mental health care or behavioral health care that

1 respects the gender identity of the patient, as
2 experienced and defined by the patient, including, but not
3 limited to, developmentally appropriate exploration and
4 integration of identity, reduction of distress, adaptive
5 coping, and strategies to increase family acceptance.

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

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

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

19 (A) attend and give testimony at a deposition;

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

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

26 (Source: P.A. 99-79, eff. 1-1-16.)

1 (735 ILCS 35/3)

2 Sec. 3. Issuance of subpoena.

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

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

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

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

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

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

24 (Source: P.A. 99-79, eff. 1-1-16.)

1 Section 97. Severability. The provisions of this Act are
2 severable under Section 1.31 of the Statute on Statutes.

3 Section 99. Effective date. This Act takes effect June 1,
4 2023.

1 INDEX

2 Statutes amended in order of appearance

3 New Act

4 725 ILCS 225/4.5 new

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

6 735 ILCS 5/2-1101.1 new

7 735 ILCS 35/2

8 735 ILCS 35/3