

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1735

H.P. 1114

House of Representatives, April 20, 2023

An Act to Safeguard Gender-affirming Health Care

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative OSHER of Orono.
Cosponsored by Senator CARNEY of Cumberland and
Representatives: MILLIKEN of Blue Hill, MOONEN of Portland, SALISBURY of
Westbrook, SHEEHAN of Biddeford, WORTH of Ellsworth.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 14 MRSA §403, sub-§4** is enacted to read:

3 **4. Prohibition.** Notwithstanding subsection 2, the clerk of court may not issue a
4 subpoena pursuant to this section if the foreign subpoena is based on a violation of another
5 state's laws that interfere with a person's right to allow a child to receive gender-affirming
6 health care or gender-affirming mental health care. For the purposes of this subsection,
7 "gender-affirming health care" and "gender-affirming mental health care" have the same
8 meanings as in Title 19-A, section 1732.

9 **Sec. 2. 15 MRSA §230** is enacted to read:

10 **§230. Warrants and extradition in connection with provision of gender-affirming**
11 **health care and gender-affirming mental health care**

12 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
13 following terms have the following meanings.

14 A. "Gender-affirming health care" means medically necessary health care that respects
15 the gender identity of the patient, as experienced and defined by the patient, including,
16 but not limited to, the following:

17 (1) Interventions to suppress the development of endogenous secondary sex
18 characteristics;

19 (2) Interventions to align the patient's appearance or physical body with the
20 patient's gender identity; and

21 (3) Interventions to alleviate symptoms of clinically significant distress resulting
22 from gender dysphoria, as defined in the Diagnostic and Statistical Manual of
23 Mental Disorders, 5th edition or its successor in function.

24 B. "Gender-affirming mental health care" means mental health care or behavioral
25 health care that respects the gender identity of the patient, as experienced and defined
26 by the patient, including, but not limited to, developmentally appropriate exploration
27 and integration of identity, reduction of distress, adaptive coping and strategies to
28 increase family acceptance.

29 **2. Public policy.** It is the public policy of this State that an out-of-state arrest warrant
30 for an individual based on violating another state's law against providing, receiving or
31 allowing a child to receive gender-affirming health care or gender-affirming mental health
32 care is the lowest law enforcement priority.

33 **3. Prohibitions.** A law enforcement agency may not knowingly make or participate
34 in the arrest or participate in any extradition of an individual pursuant to an out-of-state
35 arrest warrant for violation of another state's law against providing, receiving or allowing
36 a child to receive gender-affirming health care or gender-affirming mental health care in
37 this State, if that care is lawful under the laws of this State, to the fullest extent permitted
38 by federal law. A state or local law enforcement agency may not cooperate with or provide
39 information to any individual or out-of-state agency or department regarding the provision
40 of lawful gender-affirming health care or gender-affirming mental health care performed
41 in this State.

1 **4. Investigation; sharing of information.** Nothing in this section prohibits the
2 investigation of any criminal activity in this State that may involve the performance of
3 gender-affirming health care or gender-affirming mental health care, except that no
4 information relating to any medical procedure performed on a specific individual may be
5 shared with an out-of-state agency or any other individual without the documented consent
6 of the patient.

7 **Sec. 3. 19-A MRSA §1732, sub-§6-A** is enacted to read:

8 **6-A. Gender-affirming health care.** "Gender-affirming health care" means
9 medically necessary health care that respects the gender identity of the patient, as
10 experienced and defined by the patient, including, but not limited to, the following:

11 (1) Interventions to suppress the development of endogenous secondary sex
12 characteristics;

13 (2) Interventions to align the patient's appearance or physical body with the
14 patient's gender identity; and

15 (3) Interventions to alleviate symptoms of clinically significant distress resulting
16 from gender dysphoria, as defined in the Diagnostic and Statistical Manual of
17 Mental Disorders, 5th edition or its successor in function.

18 **Sec. 4. 19-A MRSA §1732, sub-§6-B** is enacted to read:

19 **6-B. Gender-affirming mental health care.** "Gender-affirming mental health care"
20 means mental health care or behavioral health care that respects the gender identity of the
21 patient, as experienced and defined by the patient, including, but not limited to,
22 developmentally appropriate exploration and integration of identity, reduction of distress,
23 adaptive coping and strategies to increase family acceptance.

24 **Sec. 5. 19-A MRSA §1745, sub-§1, ¶B-1** is enacted to read:

25 B-1. A court of another state does not have jurisdiction under paragraph A, or a court
26 of the home state of the child has declined to exercise jurisdiction on the grounds that
27 this State is the more appropriate forum under section 1751 or 1752, and the child is
28 present in this State for the purpose of obtaining gender-affirming health care or
29 gender-affirming mental health care;

30 **Sec. 6. 19-A MRSA §1748, sub-§1,** as enacted by PL 1999, c. 486, §3 and affected
31 by §6, is amended to read:

32 **1. Abandoned child; emergency.** A court of this State has temporary emergency
33 jurisdiction if the child is present in this State and the child has been abandoned or it is
34 necessary in an emergency to protect the child because the child or a sibling or parent of
35 the child is subjected to or threatened with mistreatment or abuse or because the child has
36 been unable to obtain gender-affirming health care or gender-affirming mental health care.

37 **Sec. 7. 19-A MRSA §1751, sub-§2-A** is enacted to read:

38 **2-A. Prohibition.** In a case in which the provision of gender-affirming health care or
39 gender-affirming mental health care to the child is at issue, a court of this State may not
40 determine that it is an inconvenient forum if the law or policy of the other state that may
41 take jurisdiction limits the ability of a parent to obtain gender-affirming health care or
42 gender-affirming mental health care for the parent's child.

1 another state's law against providing, receiving or allowing a child to receive gender-
2 affirming health care or gender-affirming mental health care in this State.