

## CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

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**BILL NUMBER: SB 497**

**VERSION: AMENDED APRIL 21, 2025**

**AUTHOR: WIENER**

**SPONSOR:**

- **EQUALITY CALIFORNIA**
- **PLANNED PARENTHOOD AFFILIATES OF CALIFORNIA**

**STAFF RECOMMENDED POSITION: SUPPORT**

**SUBJECT: LEGALLY PROTECTED HEALTH CARE ACTIVITY**

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**Overview:** This bill seeks to protect the privacy and safety of individuals seeking gender affirming health care and mental health care in California, as well as the health care providers delivering these services, by strengthening protections in law related to the sharing of their health care information.

### **Existing Law:**

- 1) Defines “gender affirming health care” as medically necessary health care that respects the gender identity of the patient, as experienced and defined by the patient. (Welfare and Institutions Code (WIC) §16010.2(b)(3)(A))
- 2) Defines “gender affirming mental health care” as mental or behavioral health care that respects the gender identity of the patient, as experienced and defined by the patient. It may include, but is not limited to, developmentally appropriate exploration and integration of identity, reduction of distress, adaptive coping, and strategies to increase family acceptance. (WIC §16010.2(b)(3)(B))
- 3) Prohibits a health care provider, health care service plan, or contractor from disclosing medical information regarding a patient without first obtaining authorization, except under certain specified circumstances. (Civil Code (CIV) §56.10)
- 4) Prohibits a health care provider, health care service plan, or contractor from releasing medical information related to a person or entity allowing a child to receive gender affirming health care or gender affirming mental health care in response to any civil action, based on another state’s law authorizing a civil action to be brought against a person or entity allowing a child to receive gender affirming health care or gender affirming mental health care. (CIV §56.109(a))
- 5) Prohibits a health care provider, health care service plan, or contractor from releasing medical information to persons or entities who have requested it and who

are otherwise authorized by law to receive it, if the information is related to a person or entity allowing a child to receive gender affirming health care or gender affirming mental health care, if that information is being requested pursuant to another state's law that authorizes a person to bring civil action against a person or entity for allowing a child to receive this care. (CIV §56.109(b))

- 6) Sets the process for requesting the issuance of a subpoena in California based on a "foreign" (i.e. from out-of-state) subpoena. Prohibits issuance of a subpoena if the foreign subpoena is based on a violation of laws in another state that interfere with a person's right to allow a child to receive gender affirming health care or gender affirming mental health care. (Code of Civil Procedure (CCP) §2029.300(e)(1))
- 7) Sets forth the conditions that must be satisfied for a California licensed attorney to issue a subpoena based on a foreign subpoena. Prohibits the attorney from issuing the subpoena if the foreign 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 health care or gender affirming mental health care. (CCP §2029.350(b))
- 8) Establishes the Controlled Substance Utilization Review and Evaluation System (CURES) electronic database, administered by the Department of Justice (DOJ), to assist health providers and law enforcement in ensuring appropriate distribution of controlled substances. The database must comply with all applicable federal and state privacy and security laws. (Health and Safety Code (HSC) §11165)
- 9) Permits the department of administering the CURES database (the DOJ) to enter into an agreement with another prescription drug monitoring program in another state for purposes of interstate data sharing. (HSC §11165(h))
- 10) Specifies the process for issuing a subpoena in criminal cases. However, it specifies that a provider of health care, a health care service plan, or contractor is prohibited from releasing medical information related to a person or entity allowing a child to receive gender affirming health care or gender affirming mental health care in response to a foreign subpoena that is based on a violation of another state's laws authorizing a criminal action or against a person or entity allowing a child to receive such care. (Penal Code (PC) §1326(c))

**This Bill:**

- 1) Prohibits a health care provider, health care service plan, or contractor from releasing medical information related to a person seeking or obtaining gender affirming health care or gender affirming mental health care, or a person or entity allowing a child to receive gender affirming health care or gender affirming mental health care in response to any subpoena or request, based on another state's law that interferes with an individual's right to seek or obtain such care or authorizes a civil or criminal action to be brought against a person or entity allowing a child to

receive gender affirming health care or gender affirming mental health care. (CIV §56.109(a))

- 2) Prohibits a health care provider, health care service plan, or contractor from releasing medical information to persons or entities who have requested it and who are otherwise authorized by law to receive it, if the information is related to an individual seeking or obtaining gender-affirming health care or gender affirming mental health care, or to a person or entity allowing a child to receive gender affirming health care or gender affirming mental health care, if that information is being requested pursuant to another state's law that authorizes a person to bring civil or criminal action against a person or entity that provides, seeks, obtains, or receives such care, or who allows a child to receive this care. (CIV §56.109(b))
- 3) Prohibits a health care provider, health care service plan, or contractor from cooperating with an inquiry or investigation or providing medical information to another state entity or federal law enforcement agency (to the extent permitted by federal law) 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 in California. (CIV §56.109(c))
- 4) Does not prohibit compliance with the investigation of activity that is punishable as a crime in California. (CIV §56.109(d))
- 5) Prohibits the issuance of a subpoena if the foreign subpoena is based on a violation of laws in another state that interfere with a person's right to allow seek or obtain gender affirming health care or gender affirming mental health care, or to allow a child to receive gender affirming health care or gender affirming mental health care. (Code of Civil Procedure (CCP) §2029.300(e)(1))
- 6) Prohibits a California licensed attorney from issuing a subpoena if the foreign subpoena is based on a violation of another state's laws that interfere with a person's right to seek or obtain gender affirming health care or gender affirming mental health care or to allow a child to receive gender affirming health care or gender affirming mental health care. (CCP §2029.350(b))
- 7) Prohibits a public agency or anyone acting on behalf of a public agency from knowingly providing CURES data or knowingly expending resources to further any interstate investigation or proceeding to impose civil, criminal, or disciplinary liability for the provision or receipt of legally protected health care activity. Specifies that investigation of any activity punishable as a crime under California law is not prohibited, as long as CURES data related to any legally protected health care activity is not knowingly shared with any individual or entity from another state. (HSC §11165(c)(2)(C))
- 8) Prohibits an out-of-state authorized CURES user who obtains CURES data through its data sharing hub from providing that data in furtherance of any investigation or proceeding seeking to impose civil, criminal, or disciplinary liability

for the provision or receipt of legally protected health care activity. (HSC §11165(h))

- 9) Makes it a misdemeanor to access the CURES database if not authorized to do so by law, or to knowingly furnish information from the CURES database to someone not authorized by law to receive it. (HSC §11165(k))
- 10) Specifies that a provider of health care, a health care service plan, or contractor is prohibited from releasing medical information related to (PC §1326(c)):
  - An individual seeking or obtaining gender affirming health care or gender affirming mental health care;
  - A person or entity allowing a child to receive gender affirming health care or gender affirming mental health care in response to a foreign subpoena that is based on a violation of another state's laws authorizing a criminal action that interferes with an individual's rights to seek or obtain this care; or
  - Against a person or entity allowing a child to receive such care.
- 11) Prohibits a provider of health care, a health service plan, or contractor from releasing medical information related to sensitive services in response to a foreign subpoena based on a violation of another state's laws authorizing a criminal action against a person or entity for the provision or receipt of legally protected health care activity. (PC §1326(d))

### **Comments:**

- 1) **Author's Intent.** In the fact sheet for the bill, the author's office states the following:

*"SB 497 protects the privacy and safety of individuals seeking gender affirming health care in California by:*

- *Protecting sensitive data from being disclosed to out-of-state law enforcement to prosecute people receiving care that is legal in California;*
- *Establishing criminal penalties for accessing sensitive health data without a warrant;*
- *Expanding the protections for transgender people in SB 107 (Wiener, Chapter 810, Statutes of 2022) by strengthening California's Confidentiality of Medical Information Act to protect privacy of patients seeking gender affirming care;*
- *Stating the intent to protect teachers affirming of transgender youth.*

*The bill reaffirms California’s commitment to protecting the transgender community and reestablishes California as a national leader on LGBTQ rights while the community faces an historic assault.”*

- 2) **Previous Legislation.** SB 107 (Wiener, Chapter 810, Statutes of 2022) provided numerous safeguards against other states’ laws for individuals seeking gender affirming care in California. These safeguards included prohibiting the state from cooperating with out -of-state subpoenas or legal action aimed at preventing access to this care, and barring law enforcement from assisting in investigating or prosecuting those who provide gender affirming care.
- 3) **Staff Recommended Position.** Staff recommends a “support” position on this bill.
- 4) **Support and Opposition**

Support

- Equality California (sponsor)
- Planned Parenthood Affiliates of California (sponsor)
- American College of Obstetricians & Gynecologists - District IX
- API Equality-LA
- California Chapter of the American College of Emergency Physicians
- California Legislative LGBTQ Caucus
- California LGTBQ Health and Human Services Network
- California Medical Association
- California Psychological Association
- CalPride
- CalPride Sierras
- CalPride Valle Central
- Children Now
- Courage California
- El/La Para TransLatinas
- Electronic Frontier Foundation
- Family Violence Appellate Project
- Hmong Innovating Politics
- National Health Law Program
- Oakland Privacy
- Oasis Legal Services
- Our Family Coalition
- PFLAG Los Angeles
- PFLAG Oakland-East Bay
- PFLAG Sacramento
- Pride at the Pier
- Rainbow Families Action Bay Area
- Sacramento LGBT Community Center
- Santa Monica Democratic Club

- Secure Justice
- Seneca Family of Agencies

Oppose

- None at this time

**5) History**

04/21/25 From committee with author's amendments. Read second time and amended. Re-referred to Com. on PUB. S.

04/11/25 Set for hearing April 29.

04/09/25 From committee: Do pass and re-refer to Com. on PUB. S. (Ayes 11. Noes 2.) (April 8). Re-referred to Com. on PUB. S.

03/28/25 From committee with author's amendments. Read second time and amended. Re-referred to Com. on JUD.

03/20/25 Set for hearing April 8.

02/26/25 Referred to Coms. on JUD. and PUB. S.

02/20/25 From printer. May be acted upon on or after March 22.

02/19/25 Introduced. Read first time. To Com. on RLS. for assignment. To print.

AMENDED IN SENATE APRIL 21, 2025

AMENDED IN SENATE MARCH 28, 2025

**SENATE BILL**

**No. 497**

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**Introduced by Senator Wiener**

**(Coauthors: Senators Arreguín, Cabaldon, Cervantes, Gonzalez,  
Laird, and Padilla)**

**(Coauthors: Assembly Members Haney, Lee, Stefani, and Ward)**

February 19, 2025

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An act to amend Section 56.109 of the Civil Code, to amend Sections 2029.300 and 2029.350 of the Code of Civil Procedure, to amend Section 11165 of the Health and Safety Code, and to amend Section 1326 of the Penal Code, relating to health care.

**legislative counsel's digest**

SB 497, as amended, Wiener. Legally protected health care activity.

The United States Constitution generally requires a state to give full faith and credit to the public acts, records, and judicial proceedings of every other state. Existing law generally authorizes a California court or attorney to issue a subpoena if a foreign subpoena has been sought in this state, but prohibits the issuance of a subpoena based on another state's law that interferes with a person's right to allow a child to receive gender-affirming health care or gender-affirming mental health care. Existing law generally prohibits a provider of health care, a health care service plan, or a contractor from disclosing medical information regarding a patient, enrollee, or subscriber without first obtaining an authorization, unless an exception applies, including that the disclosure is in response to a subpoena. Existing law prohibits a provider of health care, a health care service plan, or a contractor from releasing medical information related to a person or entity allowing a child to receive

gender-affirming health care or gender-affirming mental health care in response to a civil action, including a foreign subpoena, based on another state's law that authorizes a person to bring a civil action against a person or entity that allows a child to receive gender-affirming health care or gender-affirming mental health care.

This bill would additionally prohibit a provider of health care, a health care service plan, or a contractor from releasing medical information related to a person seeking or obtaining gender-affirming health care or gender-affirming mental health care in response to a criminal or civil action, including a foreign subpoena, based on another state's law that interferes with an individual's right to seek or obtain gender-affirming health care or gender-affirming mental health care. The bill would also prohibit a provider of health care, health care service plan, contractor, or employer from cooperating with or providing medical information to an individual, agency, or department from another state or, to the extent permitted by federal law, 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, as specified. The bill would prohibit these entities from releasing medical information related to sensitive services, as defined, in response to a foreign subpoena that is based on a violation of another state's laws authorizing a criminal action against a person or entity for provision or receipt of legally protected health care activity, as defined. The bill would also generally prohibit the issuance of a subpoena based on a violation of another state's law that interferes with a person's right to seek or obtain gender-affirming health care or gender-affirming mental health care, as specified.

Existing law requires the Department of Justice to maintain the Controlled Substances Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of certain controlled substances by a health care practitioner authorized to prescribe, order, administer, furnish, or dispense those controlled substances. Existing law authorizes the department to enter into an agreement with an entity operating an interstate data sharing hub, or an agency operating a prescription drug monitoring program in another state, for purposes of interstate data sharing of prescription drug monitoring program information. Existing law limits the entities to which data may be provided from CURES, as well as the type of data that may be released and the uses to which it may be put.



This bill would prohibit a state or local agency or employee, appointee, officer, contractor, or official or any other person acting on behalf of a public agency from ~~providing any CURES data or expend knowingly providing any CURES data or knowingly expending~~ any 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, as defined. The bill would ~~prohibit out-of-state law enforcement from having access to CURES data through the interstate data sharing hub and would~~ prohibit the department from sharing data with an out-of-state law enforcement agency without a warrant, subpoena, or court order, and would prohibit an out-of-state user from providing any data in furtherance of an investigation or proceeding to impose liability for the provision or receipt of legally protected health care activity.

This bill would make it a misdemeanor for a person to access the CURES database when not authorized by law, and would make it a misdemeanor for a person who is authorized to access the database to knowingly furnish information from the CURES database to a person who is not authorized by law to receive that information. By creating new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature find and declares that
- 2 California residents and visitors, especially transgender and gender
- 3 nonconforming people, are being targeted for harassment,
- 4 intimidation, and other harm, as are family members, teachers,
- 5 and others who support them. The Legislature intends to
- 6 comprehensively protect these Californians and visitors from both
- 7 in-state and out-of-state abuse, including from individuals
- 8 purporting to act on behalf of the United States Government.
- 9 (b) It is the intent of the Legislature to ensure that educators
- 10 that may face retaliation or prosecution under President Trump's

1 Executive Order on Ending Radical Indoctrination in K-12  
2 Schooling for prioritizing the safety and well-being of transgender  
3 youth are protected.

4 SEC. 2. Section 56.109 of the Civil Code is amended to read:

5 56.109. (a) Notwithstanding subdivision (b) of Section 56.10,  
6 a provider of health care, health care service plan, or contractor  
7 shall not release medical information related to a person seeking  
8 or obtaining gender-affirming health care or gender-affirming  
9 mental health care or a person or entity allowing a child to receive  
10 gender-affirming health care or gender-affirming mental health  
11 care in response to any subpoena or request, including a foreign  
12 subpoena, based on another state's law that interferes with an  
13 individual's right to seek or obtain gender-affirming health care  
14 or gender-affirming mental health care or authorizes a person to  
15 bring a civil or criminal action against a person or entity that allows  
16 a child to receive gender-affirming health care or gender-affirming  
17 mental health care.

18 (b) Notwithstanding subdivision (c) of Section 56.10, a provider  
19 of health care, health care service plan, or contractor shall not  
20 release medical information to persons or entities who have  
21 requested that information and who are authorized by law to receive  
22 that information pursuant to subdivision (c) of Section 56.10, if  
23 the information is related to an individual seeking or obtaining  
24 gender-affirming health care or gender-affirming mental health  
25 care or to a person or entity allowing a child to receive  
26 gender-affirming health care or gender-affirming mental health  
27 care, and the information is being requested pursuant to another  
28 state's law that authorizes a person to bring a civil or criminal  
29 action against a person or entity that provides, seeks, obtains, or  
30 receives gender-affirming health care or gender-affirming mental  
31 health care or who allows a child to receive gender-affirming health  
32 care or gender-affirming mental health care.

33 (c) Notwithstanding subdivisions (b) and (c) of Section 56.10  
34 or subdivision (c) of Section 56.20, a provider of health care, health  
35 care service plan, contractor, or employer shall not cooperate with  
36 any inquiry or investigation by, or provide medical information  
37 to, any individual, agency, or department from another state or, to  
38 the extent permitted by federal law, to a federal law enforcement  
39 agency that would identify an individual and that is related to an  
40 individual seeking or obtaining gender-affirming health care or

gender-affirming mental health care that is lawful under the laws of this state.

(d) This section does not prohibit compliance with the investigation of activity that is punishable as a crime under the laws of this state.

(e) For the purposes of this section, the following terms have the following meanings:

(1) “Gender-affirming health care” and “gender-affirming mental health care” shall have the same meaning as provided in Section 16010.2 of the Welfare and Institutions Code.

(2) “Person” means an individual or governmental subdivision, agency, or instrumentality.

SEC. 3. Section 2029.300 of the Code of Civil Procedure is amended to read:

2029.300. (a) To request issuance of a subpoena under this section, a party shall submit the original or a true and correct copy of a foreign subpoena to the clerk of the superior court in the county in which discovery is sought to be conducted in this state. A request for the issuance of a subpoena under this section does not constitute making an appearance in the courts of this state.

(b) In addition to submitting a foreign subpoena under subdivision (a), a party seeking discovery shall do both of the following:

(1) Submit an application requesting that the superior court issue a subpoena with the same terms as the foreign subpoena. The application shall be on a form prescribed by the Judicial Council pursuant to Section 2029.390. No civil case cover sheet is required.

(2) Pay the fee specified in Section 70626 of the Government Code.

(c) When a party submits a foreign subpoena to the clerk of the superior court in accordance with subdivision (a), and satisfies the requirements of subdivision (b), the clerk shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(d) A subpoena issued under this section shall satisfy all of the following conditions:

(1) It shall incorporate the terms used in the foreign subpoena.

(2) It shall contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding

1 to which the subpoena relates and of any party not represented by  
2 counsel.

3 (3) It shall bear the caption and case number of the out-of-state  
4 case to which it relates.

5 (4) It shall state the name of the court that issues it.

6 (5) It shall be on a form prescribed by the Judicial Council  
7 pursuant to Section 2029.390.

8 (e) Notwithstanding subdivision (a), a subpoena shall not be  
9 issued pursuant to this section in any of the following  
10 circumstances:

11 (1) If the foreign subpoena is based on a violation of another  
12 state's laws that interfere with a person's right to seek or obtain  
13 gender-affirming health care or gender-affirming mental health  
14 care or to allow a child to receive gender-affirming health care or  
15 gender-affirming mental health care. For the purpose of this  
16 paragraph, "gender-affirming health care" and "gender-affirming  
17 mental health care" shall have the same meaning as provided in  
18 Section 16010.2 of the Welfare and Institutions Code.

19 (2) If the submitted foreign subpoena relates to a foreign penal  
20 civil action and would require disclosure of information related to  
21 sensitive services. For purposes of this paragraph, "sensitive  
22 services" has the same meaning as defined in Section 791.02 of  
23 the Insurance Code.

24 SEC. 4. Section 2029.350 of the Code of Civil Procedure is  
25 amended to read:

26 2029.350. (a) Notwithstanding Sections 1986 and 2029.300,  
27 if a party to a proceeding pending in a foreign jurisdiction retains  
28 an attorney licensed to practice in this state, who is an active  
29 member of the State Bar, and that attorney receives the original  
30 or a true and correct copy of a foreign subpoena, the attorney may  
31 issue a subpoena under this article.

32 (b) (1) Notwithstanding subdivision (a), an authorized attorney  
33 shall not issue a subpoena pursuant to subdivision (a) if the foreign  
34 subpoena is based on a violation of another state's laws that  
35 interfere with a person's right to seek or obtain gender-affirming  
36 health care or gender-affirming mental health care or to allow a  
37 child to receive gender-affirming health care or gender-affirming  
38 mental health care.

39 (2) For the purpose of this subdivision, "gender-affirming health  
40 care" and "gender-affirming mental health care" shall have the

1 same meaning as provided in Section 16010.2 of the Welfare and  
2 Institutions Code.

3 (c) Notwithstanding subdivision (a), an attorney shall not issue  
4 a subpoena under this article based on a foreign subpoena that  
5 relates to a foreign penal civil action and that would require  
6 disclosure of information related to sensitive services. For purposes  
7 of this subdivision, “sensitive services” has the same meaning as  
8 defined in Section 791.02 of the Insurance Code.

9 (d) A subpoena issued under this section shall satisfy all of the  
10 following conditions:

11 (1) It shall incorporate the terms used in the foreign subpoena.

12 (2) It shall contain or be accompanied by the names, addresses,  
13 and telephone numbers of all counsel of record in the proceeding  
14 to which the subpoena relates and of any party not represented by  
15 counsel.

16 (3) It shall bear the caption and case number of the out-of-state  
17 case to which it relates.

18 (4) It shall state the name of the superior court of the county in  
19 which the discovery is to be conducted.

20 (5) It shall be on a form prescribed by the Judicial Council  
21 pursuant to Section 2029.390.

22 SEC. 5. Section 11165 of the Health and Safety Code is  
23 amended to read:

24 11165. (a) To assist health care practitioners in their efforts  
25 to ensure appropriate prescribing, ordering, administering,  
26 furnishing, and dispensing of controlled substances, law  
27 enforcement and regulatory agencies in their efforts to control the  
28 diversion and resultant abuse of Schedule II, Schedule III, Schedule  
29 IV, and Schedule V controlled substances, and for statistical  
30 analysis, education, and research, the Department of Justice shall,  
31 contingent upon the availability of adequate funds in the CURES  
32 Fund, maintain the Controlled Substance Utilization Review and  
33 Evaluation System (CURES) for the electronic monitoring of, and  
34 internet access to information regarding, the prescribing and  
35 dispensing of Schedule II, Schedule III, Schedule IV, and Schedule  
36 V controlled substances by all practitioners authorized to prescribe,  
37 order, administer, furnish, or dispense these controlled substances.

38 (b) The department may seek and use grant funds to pay the  
39 costs incurred by the operation and maintenance of CURES. The  
40 department shall annually report to the Legislature and make

1 available to the public the amount and source of funds it receives  
2 for support of CURES.

3 (c) (1) The operation of CURES shall comply with all  
4 applicable federal and state privacy and security laws and  
5 regulations.

6 (2) (A) CURES shall operate under existing provisions of law  
7 to safeguard the privacy and confidentiality of patients. Data  
8 obtained from CURES shall only be provided to appropriate state,  
9 local, and federal public agencies for disciplinary, civil, or criminal  
10 purposes and to other agencies or entities, as determined by the  
11 department, for the purpose of educating practitioners and others  
12 in lieu of disciplinary, civil, or criminal actions. Data may be  
13 provided to public or private entities, as approved by the  
14 department, for educational, peer review, statistical, or research  
15 purposes, if patient information, including information that may  
16 identify the patient, is not compromised. The University of  
17 California shall be provided access to identifiable data for research  
18 purposes if the requirements of subdivision (t) of Section 1798.24  
19 of the Civil Code are satisfied. Further, data disclosed to an  
20 individual or agency as described in this subdivision shall not be  
21 disclosed, sold, or transferred to a third party, unless authorized  
22 by, or pursuant to, state and federal privacy and security laws and  
23 regulations. The department shall establish policies, procedures,  
24 and regulations regarding the use, access, evaluation, management,  
25 implementation, operation, storage, disclosure, and security of the  
26 information within CURES, consistent with this subdivision.

27 (B) Notwithstanding subparagraph (A), a regulatory board whose  
28 licensees do not prescribe, order, administer, furnish, or dispense  
29 controlled substances shall not be provided data obtained from  
30 CURES.

31 (C) (i) Notwithstanding subparagraph (A) or any other law, a  
32 state or local agency or employee, appointee, officer, contractor,  
33 or official or any other person acting on behalf of a public agency  
34 shall not ~~provide any CURES data or expend~~ *knowingly provide*  
35 *any CURES data or knowingly expend* or use time, money,  
36 facilities, property, equipment, personnel, or other resources in  
37 furtherance of any interstate investigation or proceeding seeking  
38 to impose civil, criminal, or disciplinary liability upon the provision  
39 or receipt of legally protected health care activity, as defined in  
40 Section 1798.300 of the Civil Code.

(ii) This section does not prohibit the investigation of any activity that is punishable as a crime under the laws of this state so long as ~~no~~ CURES data related to any legally protected health care activity, as defined in Section 1798.300 of the Civil Code, is *not knowingly* shared with any individual or entity from another state.

(3) The department may adopt regulations regarding the access and use of the information within CURES. The department shall consult with all stakeholders identified by the department during the rulemaking process. The regulations shall, at a minimum, address all of the following in a manner consistent with this chapter:

(A) The process for approving, denying, and disapproving individuals or entities seeking access to information in CURES.

(B) The purposes for which a health care practitioner may access information in CURES.

(C) The conditions under which a warrant, subpoena, or court order is required for a law enforcement agency to obtain information from CURES as part of a criminal investigation.

(D) The process by which information in CURES may be provided for educational, peer review, statistical, or research purposes.

(4) In accordance with federal and state privacy laws and regulations, a health care practitioner may provide a patient with a copy of the patient's CURES patient activity report as long as no additional CURES data are provided and the health care practitioner keeps a copy of the report in the patient's medical record in compliance with subdivision (d) of Section 11165.1.

(d) For each prescription for a Schedule II, Schedule III, Schedule IV, or Schedule V controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, 1308.14, and 1308.15, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the department or contracted prescription data processing vendor as soon as reasonably possible, but not more than one working day after the date a controlled substance is released to the patient or patient's representative, in a format specified by the department:

1 (1) Full name, address, and, if available, telephone number of  
2 the ultimate user or research subject, or contact information as  
3 determined by the Secretary of the United States Department of  
4 Health and Human Services, and the gender and date of birth of  
5 the ultimate user.

6 (2) The prescriber's category of licensure, license number,  
7 national provider identifier (NPI) number, if applicable, the federal  
8 controlled substance registration number, and the state medical  
9 license number of a prescriber using the federal controlled  
10 substance registration number of a government-exempt facility.

11 (3) Pharmacy prescription number, license number, NPI number,  
12 and federal controlled substance registration number.

13 (4) National Drug Code (NDC) number of the controlled  
14 substance dispensed.

15 (5) Quantity of the controlled substance dispensed.

16 (6) The International Statistical Classification of Diseases (ICD)  
17 Code contained in the most current ICD revision, or any revision  
18 deemed sufficient by the State Board of Pharmacy, if available.

19 (7) Number of refills ordered.

20 (8) Whether the drug was dispensed as a refill of a prescription  
21 or as a first-time request.

22 (9) Prescribing date of the prescription.

23 (10) Date of dispensing of the prescription.

24 (11) The serial number for the corresponding prescription form,  
25 if applicable.

26 (e) The department may invite stakeholders to assist, advise,  
27 and make recommendations on the establishment of rules and  
28 regulations necessary to ensure the proper administration and  
29 enforcement of the CURES database. A prescriber or dispenser  
30 invitee shall be licensed by one of the boards or committees  
31 identified in subdivision (d) of Section 208 of the Business and  
32 Professions Code, in active practice in California, and a regular  
33 user of CURES.

34 (f) The department shall, prior to upgrading CURES, consult  
35 with prescribers licensed by one of the boards or committees  
36 identified in subdivision (d) of Section 208 of the Business and  
37 Professions Code, one or more of the boards or committees  
38 identified in subdivision (d) of Section 208 of the Business and  
39 Professions Code, and any other stakeholder identified by the  
40 department, for the purpose of identifying desirable capabilities



1 and upgrades to the CURES Prescription Drug Monitoring Program  
2 (PDMP).

3 (g) The department may establish a process to educate  
4 authorized subscribers of the CURES PDMP on how to access and  
5 use the CURES PDMP.

6 (h) (1) The department may enter into an agreement with an  
7 entity operating an interstate data sharing hub, or an agency  
8 operating a prescription drug monitoring program in another state,  
9 for purposes of interstate data sharing of prescription drug  
10 monitoring program information. An out-of-state authorized user  
11 who obtains CURES data through the interstate data sharing hub  
12 shall not provide any CURES data in furtherance of any  
13 investigation or proceeding seeking to impose civil, criminal, or  
14 disciplinary liability upon the provision or receipt of legally  
15 protected health care activity, as defined in Section 1798.300 of  
16 the Civil Code.

17 (2) Data obtained from CURES may be provided to authorized  
18 users of another state's prescription drug monitoring program, as  
19 determined by the department pursuant to subdivision (c), if the  
20 entity operating the interstate data sharing hub, and the prescription  
21 drug monitoring program of that state, as applicable, have entered  
22 into an agreement with the department for interstate data sharing  
23 of prescription drug monitoring program information.

24 (3) An agreement entered into by the department for purposes  
25 of interstate data sharing of prescription drug monitoring program  
26 information shall ensure that all access to data obtained from  
27 CURES and the handling of data contained within CURES comply  
28 with California law, including regulations, and meet the same  
29 patient privacy, audit, and data security standards employed and  
30 required for direct access to CURES.

31 (4) For purposes of interstate data sharing of CURES  
32 information pursuant to this subdivision, an authorized user of  
33 another state's prescription drug monitoring program shall not be  
34 required to register with CURES, if the authorized user is registered  
35 and in good standing with that state's prescription drug monitoring  
36 program.

37 (5) The department shall not enter into an agreement pursuant  
38 to this subdivision until the department has issued final regulations  
39 regarding the access and use of the information within CURES as  
40 required by paragraph (3) of subdivision (c).

(6) Notwithstanding subdivision (c), the department shall not provide CURES data to out-of-state law enforcement absent a warrant, subpoena, or court order, issued pursuant to Section 2029.300 or 2029.350 of the Code of Civil Procedure, or Section 1326 of the Penal Code.

(i) Notwithstanding subdivision (d), a veterinarian shall report the information required by that subdivision to the department as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed.

(j) If the dispensing pharmacy, clinic, or other dispenser experiences a temporary technological or electrical failure, it shall, without undue delay, seek to correct any cause of the temporary technological or electrical failure that is reasonably within its control. The deadline for transmitting prescription information to the department or contracted prescription data processing vendor pursuant to subdivision (d) shall be extended until the failure is corrected. If the dispensing pharmacy, clinic, or other dispenser experiences technological limitations that are not reasonably within its control, or is impacted by a natural or manmade disaster, the deadline for transmitting prescription information to the department or contracted prescription data processing vendor shall be extended until normal operations have resumed.

(k) (1) Any person who accesses the CURES database and who is not authorized by law to do so is guilty of a misdemeanor.

(2) 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.

(3) This subdivision does not apply to a provider of health care as defined in Section 56.06 of the Civil Code that is subject to applicable state and federal medical privacy laws.

SEC. 6. Section 1326 of the Penal Code is amended to read:

1326. (a) The process by which the attendance of a witness before a court or magistrate is required is a subpoena. It may be signed and issued by any of the following:

(1) A magistrate before whom a complaint is laid or their clerk, the district attorney or their investigator, or the public defender or their investigator, for witnesses in the state.

(2) The district attorney, their investigator, or, upon request of the grand jury, any judge of the superior court, for witnesses in

1 the state, in support of an indictment or information, to appear  
2 before the court in which it is to be tried.

3 (3) The district attorney or their investigator, the public defender  
4 or their investigator, or the clerk of the court in which a criminal  
5 action is to be tried. The clerk shall, at any time, upon application  
6 of the defendant, and without charge, issue as many blank  
7 subpoenas, subscribed by them, for witnesses in the state, as the  
8 defendant may require.

9 (4) The attorney of record for the defendant.

10 (b) A subpoena issued in a criminal action that commands the  
11 custodian of records or other qualified witness of a business to  
12 produce books, papers, documents, or records shall direct that  
13 those items be delivered by the custodian or qualified witness in  
14 the manner specified in subdivision (b) of Section 1560 of the  
15 Evidence Code. Subdivision (e) of Section 1560 of the Evidence  
16 Code shall not apply to criminal cases.

17 (c) (1) Notwithstanding subdivision (b), a provider of health  
18 care, health care service plan, or contractor shall not release  
19 medical information related to an individual seeking or obtaining  
20 gender-affirming health care or gender-affirming mental health  
21 care or a person or entity allowing a child to receive  
22 gender-affirming health care or gender-affirming mental health  
23 care in response to any foreign subpoena that is based on a violation  
24 of another state's laws authorizing a criminal action that interferes  
25 with an individual's rights to seek or obtain gender-affirming health  
26 care or gender-affirming mental health care or against a person or  
27 entity that allows a child to receive gender-affirming health care  
28 or gender-affirming mental health care.

29 (2) For the purpose of this subdivision, "gender-affirming health  
30 care" and "gender-affirming mental health care" shall have the  
31 same meaning as provided in Section 16010.2 of the Welfare and  
32 Institutions Code.

33 (d) Notwithstanding subdivision (b), a provider of health care,  
34 health care service plan, or contractor shall not release medical  
35 information related to sensitive services in response to any foreign  
36 subpoena that is based on a violation of another state's laws  
37 authorizing a criminal action against a person or entity for the  
38 provision or receipt of legally protected health care activity, as  
39 defined in Section 1798.300 of the Civil Code. For purposes of

1 this subdivision, “sensitive services” has the same meaning as  
2 defined in Section 791.02 of the Insurance Code.

3 (e) In a criminal action, no party, or attorney or representative  
4 of a party, may issue a subpoena commanding the custodian of  
5 records or other qualified witness of a business to provide books,  
6 papers, documents, or records, or copies thereof, relating to a  
7 person or entity other than the subpoenaed person or entity in any  
8 manner other than that specified in subdivision (b) of Section 1560  
9 of the Evidence Code. When a defendant has issued a subpoena  
10 to a person or entity that is not a party for the production of books,  
11 papers, documents, or records, or copies thereof, the court may  
12 order an in camera hearing to determine whether or not the defense  
13 is entitled to receive the documents. The court may not order the  
14 documents disclosed to the prosecution except as required by  
15 Section 1054.3.

16 (f) This section shall not be construed to prohibit obtaining  
17 books, papers, documents, or records with the consent of the person  
18 to whom the books, papers, documents, or records relate.

19 SEC. 7. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 the only costs that may be incurred by a local agency or school  
22 district will be incurred because this act creates a new crime or  
23 infraction, eliminates a crime or infraction, or changes the penalty  
24 for a crime or infraction, within the meaning of Section 17556 of  
25 the Government Code, or changes the definition of a crime within  
26 the meaning of Section 6 of Article XIII B of the California  
27 Constitution.

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