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AB-2091 Disclosure of information: reproductive health and foreign penal civil actions. (2021-2022)

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Date Published: 09/28/2022 02:00 PM

Assembly Bill No. 2091

CHAPTER 628

An act to add Section 56.108 to the Civil Code, to amend Sections 2029.200, 2029.300, and 2029.350 of the Code of Civil Procedure, to amend Section 123466 of the Health and Safety Code, to amend Section 791.29 of the Insurance Code, and to amend Section 3408 of the Penal Code, relating to information disclosure, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 2022. Filed with Secretary of State September 27, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2091, Mia Bonta. Disclosure of information: reproductive health and foreign penal civil actions.

(1) Existing law provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions. Existing law prohibits the state from denying or interfering 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. Existing law requires a health insurer to take specified steps to protect the confidentiality of an insured's medical information, and prohibits an insurer from disclosing medical information related to sensitive health care services to the policyholder or any insureds other than the protected individual receiving 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 a specified exception applies, including that the disclosure is in response to a subpoena. Existing law prohibits an employer from using or disclosing medical information that it possesses pertaining to its employees without the patient having first signed an authorization, unless a specified exception applies, including that the disclosure is compelled by judicial or administrative process or by any other specific provision of law. Existing law authorizes a California court or attorney to issue a subpoena if a foreign subpoena has been sought in this state.

This bill would prohibit compelling a person to identify or provide information that would identify or that is related to an individual who has sought or obtained an abortion in a state, county, city, or other local criminal, administrative, legislative, or other proceeding if the information is being requested based on another state's laws that interfere with a person's right to choose or obtain an abortion or a foreign penal civil action, as defined. The bill would authorize the Insurance Commissioner to assess a civil penalty, as specified, against an insurer that has disclosed an insured's confidential medical information. The bill would prohibit a provider of health care, a health care service plan, a contractor, or an employer from releasing medical information that would identify an individual or related to an individual seeking or obtaining an abortion in response to a subpoena or a request or to law enforcement if that subpoena, request, or the purpose of law enforcement for the medical information is based on, or for the purpose of enforcement of, either another state's laws that interfere with a person's rights to choose or obtain an abortion or a foreign penal civil action. The bill would prohibit issuance of a subpoena if the submitted foreign subpoena relates to a foreign penal civil action and the submitted foreign subpoena would require disclosure of information related to sensitive services, as defined.

(2) Existing law sets forth the health care access rights of an incarcerated pregnant person and an incarcerated person who is identified as possibly pregnant or capable of becoming pregnant. Existing law prohibits the imposition of conditions or restrictions on an incarcerated person's ability to obtain an abortion.

This bill would prohibit prison staff from disclosing identifying medical information related to an incarcerated person's right to seek and obtain an abortion if the information is being requested based on another state's law that interferes with a person's rights to choose or obtain an abortion or a foreign penal civil action.

(3) This bill would incorporate additional changes to Sections 2029.300 and 2029.350 of the Code of Civil Procedure proposed by SB 107 to be operative only if this bill and SB 107 are enacted and this bill is enacted last.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Abortion care is a constitutional right and an integral part of comprehensive sexual and reproductive health care and overall health and well-being.

(b) In May 2019, the Governor signed the California Proclamation on Reproductive Freedom, reaffirming California's commitment to ensuring access to reproductive health care services, including abortion.

(c) If the United States Supreme Court overturns the protections under *Roe v. Wade*, people in more than one-half of the states in the country – more than 36 million women and other people who may become pregnant – will lose access to abortion care.

(d) In December 2021, more than 40 organizations joined together to form the California Future of Abortion Council to identify barriers to abortion services and recommend proposals to support equitable and affordable access to abortion care for Californians and all who seek care in California.

(e) California is committed to building upon existing protections that preserve the right to abortion and implement innovative and bold programs and policies to truly be a reproductive freedom state.

(f) Other states and certain California localities have increased their efforts to limit abortion access and impose criminal, civil, and administrative liability on patients, providers, and those coordinating care.

(g) Actions against California abortion providers, patients, and supporters based on hostile antiabortion statutes in other states would interfere with protected rights under the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code) and the confidentiality of patient medical records.

(h) California must protect the confidentiality of medical records related to abortion to protect abortion providers and others who assist in providing abortion care from frivolous civil lawsuits and accompanying costs aimed at harassing providers, diverting resources, and shutting down clinics.

SEC. 2. Section 56.108 is added to the Civil Code, to read:

56.108. (a) Notwithstanding subdivisions (b) and (c) of Section 56.10 or subdivision (c) of Section 56.20, a provider of health care, health care service plan, contractor, or employer shall not release medical information related to an individual seeking or obtaining an abortion in response to a subpoena or request if that subpoena or request is based on either another state's laws that interfere with a person's rights under the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code) or a foreign penal civil action, as defined in Section 2029.200 of the Code of Civil Procedure.

(b) A provider of health care, health care service plan, contractor, or employer shall not release medical information that would identify an individual or that is related to an individual seeking or obtaining an abortion to law enforcement for either of the following purposes, unless that release is pursuant to a subpoena not otherwise prohibited by subdivision (a):

(1) Enforcement of another state's law that would interfere with a person's rights under the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code).

(2) Enforcement of a foreign penal civil action, as defined in Section 2029.200 of the Code of Civil Procedure.

SEC. 3. Section 2029.200 of the Code of Civil Procedure is amended to read:

2029.200. In this article:

(a) "Foreign jurisdiction" means either of the following:

- (1) A state other than this state.
- (2) A foreign nation.

(b) "Foreign penal civil action" means a civil action authorized by the law of a state other than this state in which the sole purpose is to punish an offense against the public justice of that state.

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

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

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

(f) "Subpoena" means 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.
- (3) Permit inspection of premises under the control of the person.

SEC. 4. 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 to which the subpoena relates and of any party not represented by counsel.
- (3) It shall bear the caption and case number of the out-of-state case to which it relates.
- (4) It shall state the name of the court that issues it.
- (5) It shall be on a form prescribed by the Judicial Council pursuant to Section 2029.390.

(e) A subpoena shall not be issued if the submitted foreign subpoena relates to a foreign penal civil action and would require disclosure of information related to sensitive services. For purposes of this subdivision, "sensitive services" has the same meaning as defined in Section 791.02 of the Insurance Code.

SEC. 4.5. 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 to which the subpoena relates and of any party not represented by counsel.

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

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

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

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

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

SEC. 5. Section 2029.350 of the Code of Civil Procedure is amended to read:

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

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

(c) 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 to which the subpoena relates and of any party not represented by counsel.

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

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

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

SEC. 5.5. Section 2029.350 of the Code of Civil Procedure is amended to read:

2029.350. (a) Notwithstanding Sections 1986 and 2029.300, if a party to a proceeding pending in a foreign jurisdiction retains an attorney licensed to practice in this state, who is an active member of the State Bar, and that attorney receives the original or a

true and correct copy of a foreign subpoena, the attorney may issue a subpoena under this article.

(b) (1) Notwithstanding subdivision (a), an authorized attorney shall not issue a subpoena pursuant to subdivision (a) 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.

(2) For the purpose of this subdivision, "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.

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

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

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

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

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

SEC. 6. Section 123466 of the Health and Safety Code is amended to read:

123466. (a) The state shall not deny or interfere with a woman's or pregnant person's right to choose or obtain an abortion before the viability of the fetus, or when the abortion is necessary to protect the life or health of the woman or pregnant person.

(b) A person shall not be compelled in a state, county, city, or other local criminal, administrative, legislative, or other proceeding to identify or provide information that would identify or that is related to an individual who has sought or obtained an abortion if the information is being requested based on either another state's laws that interfere with a person's rights under subdivision (a) or a foreign penal civil action, as defined in Section 2029.200 of the Code of Civil Procedure.

SEC. 7. Section 791.29 of the Insurance Code, as added by Section 7 of Chapter 190 of the Statutes of 2021, is amended to read:

791.29. Notwithstanding any other law, and to the extent permitted by federal law, a health insurer shall take the following steps to protect the confidentiality of an insured's medical information:

(a) (1) A health insurer shall not require a protected individual to obtain the policyholder's authorization to receive sensitive services or to submit a claim for sensitive services if the protected individual has the right to consent to care.

(2) A health insurer shall recognize the right of a protected individual to exclusively exercise rights granted under this section regarding medical information related to sensitive services that the protected individual has received.

(3) A health insurer shall direct all communications regarding a protected individual's receipt of sensitive health care services directly to the protected individual receiving care as follows:

(A) If the protected individual has designated an alternative mailing address, email address, or telephone number pursuant to subdivision (b), the health insurer shall send or make all communications related to the protected individual's receipt of sensitive services to the alternative mailing address, email address, or telephone number designated.

(B) If the protected individual has not designated an alternative mailing address, email address, or telephone number pursuant to subdivision (b), the health insurer shall send or make all communications related to the protected individual's receipt of sensitive services in the name of the protected individual at the address or telephone number on file.

(C) Communications subject to this paragraph shall include the following written, verbal, or electronic communications:

(i) Bills and attempts to collect payment.

(ii) A notice of adverse benefits determinations.

(iii) An explanation of benefits notice.

(iv) A health insurer's request for additional information regarding a claim.

(v) A notice of a contested claim.

(vi) The name and address of a provider, description of services provided, and other information related to a visit.

(vii) Any written, oral, or electronic communication from a health insurer that contains protected health information.

(4) A health insurer shall not disclose medical information related to sensitive health care services provided to a protected individual to the policyholder or any insureds other than the protected individual receiving care, absent an express written authorization of the protected individual receiving care.

(b) (1) A health insurer shall permit an insured to request, and shall accommodate requests for, confidential communication in the form and format requested by the insured, if it is readily producible in the requested form and format, or at alternative locations.

(2) A health insurer may require the insured to make a request for a confidential communication described in paragraph (1) in writing or by electronic transmission.

(3) The confidential communication request shall apply to all communications that disclose medical information or provider name and address related to receipt of medical services by the individual requesting the confidential communication.

(4) The confidential communication request shall be valid until the insured submits a revocation of the request, or a new confidential communication request is submitted.

(5) For the purposes of this section, a confidential communications request shall be implemented by the health insurer within 7 calendar days of the receipt of an electronic transmission, telephonic request, or request submitted through the health insurer's internet website, or within 14 calendar days of receipt by first-class mail. The health insurer shall acknowledge receipt of the confidential communications request and advise the insured of the status of implementation of the request if an insured contacts the insurer.

(c) (1) A health insurer shall notify insureds that they may request a confidential communication pursuant to subdivision (b) and how to make the request.

(2) The information required to be provided pursuant to this subdivision shall be provided to insureds with individual or group coverage upon initial enrollment and annually thereafter upon renewal. The information shall also be provided in the following manner:

(A) In a conspicuously visible location in the evidence of coverage.

(B) On the health insurer's internet website, accessible through a hyperlink on the internet website's home page and in a manner that allows insureds, prospective insureds, and members of the public to easily locate the information.

(d) Notwithstanding subdivision (b), a provider of health care may make arrangements with the insured for the payment of benefit cost sharing and communicate that arrangement with the insurer.

(e) A health insurer shall not condition coverage on the waiver of rights provided in this section.

(f) If the commissioner determines that an insurer has violated this section, the commissioner may, after appropriate notice and opportunity for hearing in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), by order, assess a civil penalty not to exceed five thousand dollars (\$5,000) for each violation, or, if a violation was willful, a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation. The commissioner shall have the discretion to determine the acts or omissions that constitute a violation of this section.

(g) This section shall become operative on July 1, 2022.

SEC. 8. Section 3408 of the Penal Code is amended to read:

3408. (a) A person incarcerated in the state prison who is identified as possibly pregnant or capable of becoming pregnant during an intake health examination or at any time during incarceration shall be offered a test upon intake or by request. Pregnancy tests shall be voluntary and not mandatory, and may only be administered by medical or nursing personnel. An incarcerated person who declines a pregnancy test shall be asked to sign an "Informed Refusal of Pregnancy Test" form that shall become part of their medical file.

(b) An incarcerated person with a positive pregnancy test result shall be offered comprehensive and unbiased options counseling that includes information about prenatal health care, adoption, and abortion. This counseling shall be furnished by a licensed

health care provider or counselor who has been provided with training in reproductive health care and shall be nondirective, unbiased, and noncoercive. Prison staff shall not urge, force, or otherwise influence a pregnant person's decision.

(c) A prison shall not confer authority or discretion to nonmedical prison staff to decide if a pregnant person is eligible for an abortion. If a pregnant person decides to have an abortion, that person shall be offered, but not forced to accept, all due medical care and accommodations until they are no longer pregnant. A pregnant person who decides to have an abortion shall be referred to a licensed professional specified in subdivision (b) of Section 2253 of the Business and Professions Code.

(d) A person incarcerated in prison who is confirmed to be pregnant shall, within seven days of arriving at the prison, be scheduled for a pregnancy examination with a physician, nurse practitioner, certified nurse-midwife, or physician assistant. The examination shall include all of the following:

(1) A determination of the gestational age of the pregnancy and the estimated due date.

(2) A plan of care, including referrals for specialty and other services to evaluate for the presence of chronic medical conditions or infectious diseases, and to use health and social status of the incarcerated person to improve quality of care, isolation practices, level of activities, and bed assignments, and to inform appropriate specialists in relationship to gestational age and social and clinical needs, and to guide use of personal protective equipment and additional counseling for prevention and control of infectious diseases, if needed.

(3) The ordering of prenatal labs and diagnostic studies, as needed based on gestational age or existing or newly diagnosed health conditions.

(e) Incarcerated pregnant persons shall be scheduled for prenatal care visits as follows, unless otherwise indicated by the physician, nurse practitioner, certified nurse-midwife, or physician assistant:

(1) Every four weeks in the first trimester up to 24 to 28 weeks.

(2) Every two weeks thereafter up to 36 weeks gestation.

(3) Every one week thereafter until birth.

(f) Incarcerated pregnant persons shall be provided access to both of the following:

(1) Prenatal vitamins, to be taken on a daily basis, in accordance with medical standards of care.

(2) Newborn care that includes access to appropriate assessment, diagnosis, care, and treatment for infectious diseases that may be transmitted from a birthing person to the birthing person's infant, such as HIV or syphilis.

(g) Incarcerated pregnant persons housed in a multitier housing unit shall be assigned lower bunk and lower tier housing.

(h) Incarcerated pregnant persons shall not be tased, pepper sprayed, or exposed to other chemical weapons.

(i) Incarcerated pregnant persons who have used opioids prior to incarceration, either by admission or written documentation by a probation officer, or who are currently receiving methadone treatment, shall be offered medication-assisted treatment with methadone or buprenorphine, pursuant to Section 11222 of the Health and Safety Code, and shall be provided information on the risks of withdrawal.

(j) (1) An eligible incarcerated pregnant person or person who gives birth after incarceration in the prison shall be provided notice of, access to, and written application for, community-based programs serving pregnant, birthing, or lactating incarcerated persons. At a minimum, the notice shall contain guidelines for qualification, the timeframe for application, and the process for appealing a denial of admittance to those programs.

(2) If a community-based program is denied access to the prison, the reason for the denial shall be provided in writing to the incarcerated person within 15 working days of receipt of the request. The written denial shall address the safety or security concerns for the incarcerated person, infant, public, or staff.

(k) Each incarcerated pregnant person shall be referred to a social worker who shall do all of the following:

(1) Discuss with the incarcerated person the options available for feeding, placement, and care of the child after birth, including the benefits of lactation.

(2) Assist the incarcerated pregnant person with access to a phone in order to contact relatives regarding newborn placement.

(3) Oversee the placement of the newborn child.

(l) An incarcerated pregnant person shall be temporarily taken to a hospital outside the prison for the purpose of giving childbirth and shall be transported in the least restrictive way possible and in accordance with Section 3407. An incarcerated pregnant person shall not be shackled to anyone else during transport. An incarcerated pregnant person in labor or presumed to be in labor shall be treated as an emergency and shall be transported to the outside facility, accompanied by prison staff.

(m) An incarcerated pregnant person may elect to have a support person present during labor, childbirth, and during postpartum recovery while hospitalized. The support person may be an approved visitor or the prison's staff designated to assist with prenatal care, labor, childbirth, lactation, and postpartum care. The approval for the support person shall be made by the administrator of the prison or that person's designee. If an incarcerated pregnant person's request for an elected support person is denied, reason for the denial shall be provided in writing to the incarcerated person within 15 working days of receipt of the request. The written denial shall address the safety or security concerns for the incarcerated person, infant, public, or staff. Upon receipt of a written denial, the incarcerated pregnant person may choose the approved institution staff to act as the support person.

(n) All pregnant and postpartum incarcerated persons shall receive appropriate, timely, culturally responsive, and medically accurate and comprehensive care, evaluation, and treatment of existing or newly diagnosed chronic conditions, including mental health disorders and infectious diseases.

(o) An incarcerated pregnant person in labor and delivery shall be given the maximum level of privacy possible during the labor and delivery process. If a guard is present, they shall be stationed outside the room rather than in the room, absent extraordinary circumstances. If a guard must be present in the room, the guard shall stand in a place that grants as much privacy as possible during labor and delivery. A guard shall be removed from the room if a professional who is currently responsible for the medical care of a pregnant incarcerated person during a medical emergency, labor, delivery, or recovery after delivery determines that the removal of the guard is medically necessary.

(p) Upon return to prison, the physician, nurse practitioner, certified nurse-midwife, or physician assistant shall provide a postpartum examination within one week from childbirth and as needed for up to 12 weeks postpartum, and shall determine whether the incarcerated person may be cleared for full duty or if medical restrictions are warranted. Postpartum individuals shall be given at least 12 weeks of recovery after any childbirth before they are required to resume normal activity.

(q) The rights provided for incarcerated persons by this section shall be posted in at least one conspicuous place to which all incarcerated persons have access.

(r) Prison staff shall not disclose identifying medical information related to an incarcerated person's right to seek and obtain an abortion if the information is being requested based on either another state's laws that interfere with a person's rights under the Reproductive Privacy Act (Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code) or a foreign penal civil action, as defined in Section 209.200 of the Code of Civil Procedure.

SEC. 9. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 10. (a) Section 4.5 of this bill incorporates amendments to Section 209.300 of the Code of Civil Procedure proposed by both this bill and Senate Bill 107. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, but this bill becomes operative first, (2) each bill amends Section 209.300 of the Code of Civil Procedure, and (3) this bill is enacted after Senate Bill 107, in which case Section 209.300 of the Code of Civil Procedure, as amended by Section 4 of this bill, shall remain operative only until the operative date of Senate Bill 107, at which time Section 4.5 of this bill shall become operative.

(b) Section 5.5 of this bill incorporates amendments to Section 209.350 of the Code of Civil Procedure proposed by both this bill and Senate Bill 107. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, but this bill becomes operative first, (2) each bill amends Section 209.350 of the Code of Civil Procedure, and (3) this bill is enacted after Senate Bill 107, in which case Section 209.350 of the Code of Civil Procedure, as amended by Section 5 of this bill, shall remain operative only until the operative date of Senate Bill 107, at which time Section 5.5 of this bill shall become operative.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public from actions authorized under the law of another state that are contrary to the public policy of this state, including actions which interfere with a person's right to choose or obtain an abortion and foreign penal civil actions, it is necessary that this act take effect immediately.