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**SB-345 Health care services: legally protected health care activities.** (2023-2024)

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**Senate Bill No. 345**

**CHAPTER 260**

An act to amend Section 2746.5 of, and to add Sections 850.1 and 852 to, the Business and Professions Code, to add Title 1.81.49 (commencing with Section 1798.99.90) and Title 1.81.7 (commencing with Section 1798.300) to Part 4 of Division 3 of the Civil Code, to amend Sections 762.020, 872.520, and 1710.50 of the Code of Civil Procedure, to amend Section 22171 of the Education Code, to amend Section 1317.1 of, to add Section 123468.5 to, and to repeal Section 123450 of, the Health and Safety Code, to amend Sections 187, 847.5, 1299.02, and 1334.2 of, and to add Sections 1549.15 and 13778.3 to, the Penal Code, to amend Sections 1003, 10954, 15405, and 19507 of the Probate Code, and to amend Section 11486.5 of the Welfare and Institutions Code, relating to health care services.

[ Approved by Governor September 27, 2023. Filed with Secretary of State September 27, 2023. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 345, Skinner. Health care services: legally protected health care activities.

(1) Existing law provides for the licensure and regulation of various categories of medical professionals by boards within the Department of Consumer Affairs, including, among others, the Medical Board of California and the Dental Board of California. Existing law makes specified actions by licensed health care providers unprofessional conduct and, in certain cases, a criminal offense.

This bill would prohibit a healing arts board, as defined, from denying an application for a license or imposing discipline upon a licensee or health care practitioner on the basis of a civil judgment, criminal conviction, or disciplinary action in another state if that judgment, conviction, or disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive sensitive services, as defined, that would be lawful if provided in this state, regardless of the patient's location. The bill would further provide that the performance, recommendation, or provision of a legally protected health care activity by a licensee or health care practitioner acting within their scope of practice for a patient who resides in a state in which the performance, recommendation, or provision of that legally protected health care activity is illegal, does not, by itself, constitute professional misconduct, upon which discipline or other penalty may be taken.

In this connection, the bill would define a "legally protected health care activity" to mean specified acts, including, among others, the exercise and enjoyment, or attempted exercise and enjoyment, by a person of rights related to reproductive health care services or gender-affirming health care services secured by the Constitution or laws of this state or the provision of by a health care service plan contract or a policy, or a certificate of health insurance, that provides for those services.

(2) Existing law, the Confidentiality of Medical Information Act, generally prohibits a health care provider, health care service plan, contractor, or corporation from sharing, selling, using for marketing, or otherwise using medical information for a purpose not necessary to provide health care services to the patient.

This bill would prohibit a person or business from collecting, using, disclosing, or retaining the personal information of a person who is physically located at, or within a precise geolocation of, a family planning center, as defined, except as necessary to perform the services or provide the goods requested. The bill would prohibit the sale or sharing of this information. The bill would authorize an aggrieved person or entity to institute and prosecute a civil action for a violation of these provisions and specify damages and costs authorized to be recovered. The bill would specify these provisions do not apply to a provider of health care, a health care service plan, or a contractor, as defined.

(3) Existing law, the Reproductive Privacy Act, declares as contrary to the public policy of this state a law of another state that authorizes a person to bring a civil action against a person or entity that engages in certain activities relating to obtaining or performing an abortion. Existing law prohibits the state from applying an out-of-state law described above to a case or controversy in state court or enforcing or satisfying a civil judgment under the out-of-state law.

This bill would state that California law governs in any action against a person who provides or receives by any means, including telehealth, reproductive health care services or gender-affirming health care services, as specified, if the care was legal in the state in which it was provided at the time of the challenged conduct.

The bill would state that interference with the right to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services, as those terms are defined, is against the public policy of California. The bill would declare as a violation of public policy a public act or record of a foreign jurisdiction that, among other things, authorizes a person to bring a civil action against a person, provider, or other entity in California for, among other acts, seeking or providing reproductive health care services, gender-affirming health care services, or gender-affirmative mental health care services. The bill would declare the intent of the Legislature that nothing in the bill be interpreted to undermine or decrease any existing protections under California law. The bill would authorize a person to institute a civil action against a person who engages in abusive litigation, as defined, that infringes on or interferes with a legally protected health care activity, among other things. The bill would specify damages and costs authorized to be recovered and would specify circumstances under which a court may exercise jurisdiction over a person in such a civil action. The bill would authorize an aggrieved person, provider, or other entity, as defined, to move to modify or quash a subpoena issued in connection with abusive litigation. The bill would specify the laws of California govern in a case or controversy heard in California related to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services, except as required by federal law.

(4) Existing law permits a judgment creditor to apply for the entry of a judgment based on a sister state judgment by filing an application with a superior court and requires the court clerk to enter a judgment based on the application. Existing law also requires courts to grant a stay enforcement of such a judgment under specified circumstances.

This bill would additionally require a court to grant a stay of enforcement of a sister state judgment if a money judgment or lien on real property was obtained for the exercise of a right guaranteed by the United States Constitution, a right guaranteed by the California Constitution, or against a person or entity for aiding and abetting the exercise of those rights, as specified.

(5) Existing law prohibits an abortion from being performed upon an unemancipated minor unless she first has given her written consent to the abortion and also has obtained the written consent of one of her parents or legal guardian. Existing law provides specified judicial procedures to be followed if one or both of the unemancipated pregnant minor's or her guardian refuse to consent or if the minor elects not to seek their consent.

This bill would repeal these provisions.

(6) Existing law defines murder as the unlawful killing of a human being, or a fetus, with malice aforethought. Existing law creates an exemption for a person who commits an act that results in the death of a fetus under specific circumstances, including if the act is solicited, aided, abetted, or consented to by the person pregnant with the fetus.

This bill would expand that exemption to include a person pregnant with a fetus who committed the act that resulted in the death of the fetus.

(7) Existing law prohibits a state or local law enforcement agency or officer from knowingly arresting or knowingly participating in the arrest of any person for performing, supporting, or aiding in the performance of an abortion or for obtaining an abortion, if the abortion is lawful in this state. Existing law prohibits a state or local public agency from cooperating with or providing information to an individual or agency from another state or a federal law enforcement agency, as specified, regarding a lawful abortion.

This bill would additionally prohibit a state or local government employee or a person acting on behalf of the local or state government, among others, from providing information or expending resources in furtherance of an investigation that seeks to impose civil or criminal liability or professional sanctions on an individual for a legally protected health care activity that occurred in this state or that would be legal if it occurred in this state. The bill would require any out-of-state subpoena, warrant, wiretap order, pen register trap and trace order, or other legal process to include an affidavit or declaration under penalty of perjury that the discovery request is not in connection with an out-of-state proceeding relating to a legally protected health care activity,

except as specified. By requiring an individual seeking to discovery under these provisions to declare certain conditions are present under penalty of perjury, this bill would expand the crime of perjury and impose a state-mandated local program.

(8) Existing law authorizes a magistrate to issue a warrant, upon application by a bail bondsman, as described, for an individual fleeing bail in another state and found in this state upon a finding of probable cause for believing that the person is a fugitive. Existing law makes it a misdemeanor to take a person who is a fugitive admitted to bail in another state into custody, except pursuant to a magistrate's order.

This bill would prohibit a magistrate from issuing a warrant for the arrest of an individual whose alleged offense or conviction is for the violation of the laws of another state that authorize a criminal penalty to an individual performing, receiving, supporting, or aiding in the performance or receipt of sexual or reproductive health care, including, but not limited to, an abortion, contraception, or gender-affirming care if the sexual or reproductive health care is lawful under the laws of this state, regardless of the recipient's location. The bill would make a bail bondsman who takes such an individual into custody without a warrant guilty of an infraction punishable by a fine of \$5,000 and ineligible for and subject to forfeiture of specified licenses. The bill would create a civil cause of action for an individual taken into custody in violation of this provision. By creating a new crime, this bill would create a state-mandated local program.

(9) Existing law, the Bail Fugitive Recovery Persons Act, prohibits a person, other than a certified law enforcement officer, from apprehending, detaining, or arresting a bail fugitive unless the person is a licensed bail fugitive recovery agent, or both a bail licensee and private investigator who are also bail fugitive recovery agents. Existing law makes a violation of the Bail Fugitive Recovery Persons Act a misdemeanor.

This bill would prohibit a person authorized under the act from apprehending, detaining, or arresting a bail fugitive who has been admitted to bail in another state and whose alleged offense or conviction is for the violation of a law of another state that authorizes a criminal penalty to an individual performing, receiving, supporting, or aiding in the performance or receipt of sexual or reproductive health care, including, but not limited to, abortion, contraception, or gender-affirming care, if the sexual or reproductive health care is lawful under the laws of this state, regardless of the recipient's location. The bill would make a violation of this provision an infraction punishable by a fine of \$5,000 and make the authorized individual ineligible for and subject to forfeiture of specified licenses. The bill would create a civil cause of action for an individual taken into custody in violation of this provision. By expanding the application of a crime, this bill would create a state-mandated local program.

(10) Existing law establishes a process by which a material witness in this state may be ordered to attend and testify in a pending prosecution or grand jury in another state.

This bill would prohibit a judge from ordering a witness to appear pursuant to these provisions if the criminal prosecution is based on the laws of another state that authorizes a criminal penalty to an individual performing, receiving, supporting, or aiding in the performance or receipt of sexual or reproductive health care, including, but not limited to, an abortion, contraception, or gender-affirming care if the sexual or reproductive health care is lawful under the laws of this state.

(11) Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program, under which each county provides cash assistance and other benefits to qualified low-income families and individuals. Existing federal law establishes the federal Supplemental Nutrition Assistance Program (SNAP), known in California as CalFresh, under which supplemental nutrition assistance benefits allocated to the state by the federal government are distributed to eligible individuals by each county. Existing federal regulations disqualify a fleeing felon, as defined, from receiving benefits under the CalFresh program.

This bill would require a determination that a person is fleeing to avoid prosecution for purposes of eligibility in the CalWORKs program if a federal, state, or local law enforcement officer in their official capacity presents an outstanding felony arrest warrant containing specified National Crime Information Center Uniform Offense Classification Codes.

(12) Existing law refers to "unborn children" and "unborn persons" in various contexts, including, among others, defining low-risk pregnancy conditions for determining the scope of authorization of a certificate to practice nurse-midwifery, defining active labor for health facility licensing provisions, and defining spouse for California State Teachers' Retirement System benefits.

This bill would replace "unborn child" and "unborn person" with "fetus" in those provisions.

(13) Existing law also refers to "unborn persons" in various contexts, including naming unknown defendants in real property actions, allowing a court to appoint a guardian ad litem to advocate for inadequately represented interests in probate proceedings, allowing a guardian ad litem to give consent on behalf of a beneficiary who lacks legal capacity, and providing an exception for requiring a personal representative to file an account of the distributions of a decedent's estate.

This bill would replace "unborn person" with "unborn beneficiary" in those provisions.

(14) 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.

(15) This bill would incorporate additional changes to Section 2746.5 of the Business and Professions Code proposed by SB 667 to be operative only if this bill and SB 667 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

### **SECTION 1.** The Legislature finds and declares the following:

It is the intent of the Legislature that nothing herein shall be interpreted to undermine or decrease any existing protections under California law.

### **SEC. 2.** Section 850.1 is added to the Business and Professions Code, to read:

**850.1.** (a) A healing arts board shall not deny an application for licensure or suspend, revoke, or otherwise impose discipline upon a licensee or health care practitioner subject to this division on the basis of a civil judgment, criminal conviction, or disciplinary action in another state if that judgment, conviction, or disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive sensitive services that would be lawful if provided in this state, regardless of the patient's location.

(b) This section does not apply to a civil judgment, criminal conviction, or disciplinary action imposed in another state based upon conduct in another state that would subject an applicant, licensee, or health care practitioner subject to this division to a similar claim, charge, or action under the laws of this state.

(c) For purposes of this section:

- (1) "Healing arts board" means any board, division, or examining committee in the Department of Consumer Affairs that licenses or certifies health professionals.
- (2) "Sensitive services" has the same meaning as in Section 56.05 of the Civil Code.

### **SEC. 3.** Section 852 is added to the Business and Professions Code, to read:

**852.** The performance, recommendation, or provision of any legally protected health care activity, as defined in Section 1798.300 of the Civil Code, by a licensee or a health care practitioner subject to this division acting within their scope of practice, for a patient who resides in a state in which the performance, recommendation, or provision of that legally protected health care activity is illegal, shall not, by itself, constitute professional misconduct under this division or any regulation governing the licensure, certification, or authorization of that licensee or practitioner, nor shall any license, certification, or authorization of a licensee or health care practitioner subject to this division be revoked, suspended, or annulled or otherwise subject to any other penalty or discipline provided in this division solely on the basis that the licensee or health care practitioner performed, recommended, or provided any legally protected health care activity for a patient who resides in a state in which the performance, recommendation, or provision of that legally protected health service is illegal.

### **SEC. 4.** Section 2746.5 of the Business and Professions Code is amended to read:

**2746.5.** (a) The certificate to practice nurse-midwifery authorizes the holder to attend cases of low-risk pregnancy and childbirth and to provide prenatal, intrapartum, and postpartum care, including interconception care, family planning care, and immediate care for the newborn, consistent with the Core Competencies for Basic Midwifery Practice adopted by the American College of Nurse-Midwives, or its successor national professional organization, as approved by the board. For purposes of this subdivision, "low-risk pregnancy" means a pregnancy in which all of the following conditions are met:

- (1) There is a single fetus.
- (2) There is a cephalic presentation at onset of labor.
- (3) The gestational age of the fetus is greater than or equal to 37 weeks and zero days and less than or equal to 42 weeks and zero days at the time of delivery.
- (4) Labor is spontaneous or induced.

(5) The patient has no preexisting disease or condition, whether arising out of the pregnancy or otherwise, that adversely affects the pregnancy and that the certified nurse-midwife is not qualified to independently address consistent with this section.

(b) (1) The certificate to practice nurse-midwifery authorizes the holder to practice with a physician and surgeon under mutually agreed-upon policies and protocols that delineate the parameters for consultation, collaboration, referral, and transfer of a patient's care, signed by both the certified nurse-midwife and a physician and surgeon to do either of the following:

(A) Provide a patient with care that falls outside the scope of services specified in subdivision (a).

(B) Provide intrapartum care to a patient who has had a prior cesarean section or surgery that interrupts the myometrium.

(2) If a physician and surgeon assumes care of the patient, the certified nurse-midwife may continue to attend the birth of the newborn and participate in physical care, counseling, guidance, teaching, and support, as indicated by the mutually agreed-upon policies and protocols signed by both the certified nurse-midwife and a physician and surgeon.

(3) After a certified nurse-midwife refers a patient to a physician and surgeon, the certified nurse-midwife may continue care of the patient during a reasonable interval between the referral and the initial appointment with the physician and surgeon.

(c) (1) If a nurse-midwife does not have in place mutually agreed-upon policies and protocols that delineate the parameters for consultation, collaboration, referral, and transfer of a patient's care, signed by both the certified nurse-midwife and a physician and surgeon pursuant to paragraph (1) of subdivision (b), the patient shall be transferred to the care of a physician and surgeon to do either or both of the following:

(A) Provide a patient with care that falls outside the scope of services specified in subdivision (a).

(B) Provide intrapartum care to a patient who has had a prior cesarean section or surgery that interrupts the myometrium.

(2) After the certified nurse-midwife initiates the process of transfer pursuant to paragraph (1), for a patient who otherwise meets the definition of a low-risk pregnancy but no longer meets the criteria specified in paragraph (3) of subdivision (a) because the gestational age of the fetus is greater than 42 weeks and zero days, if there is inadequate time to effect safe transfer to a hospital prior to delivery or transfer may pose a threat to the health and safety of the patient or the fetus, the certified nurse-midwife may continue care of the patient consistent with the transfer plan described in subdivision (a) of Section 2746.54.

(3) A patient who has been transferred from the care of a certified nurse-midwife to that of a physician and surgeon may return to the care of the certified nurse-midwife after the physician and surgeon has determined that the condition or circumstance that required, or would require, the transfer from the care of the nurse-midwife pursuant to paragraph (1) is resolved.

(d) The certificate to practice nurse-midwifery authorizes the holder to attend pregnancy and childbirth in an out-of-hospital setting if consistent with subdivisions (a), (b), and (c).

(e) This section shall not be interpreted to deny a patient's right to self-determination or informed decisionmaking with regard to choice of provider or birth setting.

(f) The certificate to practice nurse-midwifery does not authorize the holder of the certificate to assist childbirth by vacuum or forceps extraction, or to perform any external cephalic version.

(g) A certified nurse-midwife shall document all consultations, referrals, and transfers in the patient record.

(h) (1) A certified nurse-midwife shall refer all emergencies to a physician and surgeon immediately.

(2) A certified nurse-midwife may provide emergency care until the assistance of a physician and surgeon is obtained.

(i) This chapter does not authorize a nurse-midwife to practice medicine or surgery.

(j) This section shall not be construed to require a physician and surgeon to sign protocols and procedures for a nurse-midwife or to permit any action that violates Section 2052 or 2400.

(k) This section shall not be construed to require a nurse-midwife to have mutually agreed-upon, signed policies and protocols for the provision of services described in subdivision (a).

**SEC. 4.5.** Section 2746.5 of the Business and Professions Code is amended to read:

**2746.5.** (a) The certificate to practice nurse-midwifery authorizes the holder to attend cases of low-risk pregnancy and childbirth and to provide prenatal care, intrapartum care, postpartum care, including immediate care for the newborn, interconception care, family planning care, and care for common gynecologic conditions, consistent with the Core Competencies for Basic Midwifery

Practice adopted by the American College of Nurse-Midwives, or its successor national professional organization, as approved by the board. For purposes of this subdivision, "low-risk pregnancy" means a pregnancy in which all of the following conditions are met:

- (1) There is a single fetus.
  - (2) There is a cephalic presentation at onset of labor.
  - (3) The gestational age of the fetus is greater than or equal to 37 weeks and zero days and less than or equal to 42 weeks and zero days at the time of delivery.
  - (4) Labor is spontaneous or induced.
  - (5) The patient has no preexisting disease or condition, whether arising out of the pregnancy or otherwise, that adversely affects the pregnancy and that the certified nurse-midwife is not qualified to independently address consistent with this section.
- (b) (1) The certificate to practice nurse-midwifery authorizes the holder, pursuant to policies and protocols that are mutually agreed upon with a physician and surgeon, that delineate the parameters for consultation, collaboration, referral, and transfer of a patient's care, and that are signed by both the certified nurse-midwife and a physician and surgeon, to do any of the following:
- (A) Provide a patient with care that falls outside the scope of services specified in subdivision (a).
  - (B) Provide intrapartum care to a patient who has had a prior cesarean section or surgery that interrupts the myometrium.
  - (C) Furnish or order a Schedule II or III controlled substance, including for patients that fall within the scope of services specified in subdivision (a).
- (2) If a physician and surgeon assumes care of the patient, the certified nurse-midwife may continue to attend the birth of the newborn and participate in physical care, counseling, guidance, teaching, and support, as indicated by the mutually agreed-upon policies and protocols signed by both the certified nurse-midwife and a physician and surgeon.
- (3) After a certified nurse-midwife refers a patient to a physician and surgeon, the certified nurse-midwife may continue care of the patient during a reasonable interval between the referral and the initial appointment with the physician and surgeon.
- (c) (1) If a nurse-midwife does not have in place mutually agreed-upon policies and protocols that delineate the parameters for consultation, collaboration, referral, and transfer of a patient's care, signed by both the certified nurse-midwife and a physician and surgeon pursuant to paragraph (1) of subdivision (b), the patient shall be transferred to the care of a physician and surgeon to do either or both of the following:
- (A) Provide a patient with care that falls outside the scope of services specified in subdivision (a).
  - (B) Provide intrapartum care to a patient who has had a prior cesarean section or surgery that interrupts the myometrium.
- (2) After the certified nurse-midwife initiates the process of transfer pursuant to paragraph (1), for a patient who otherwise meets the definition of a low-risk pregnancy but no longer meets the criteria specified in paragraph (3) of subdivision (a) because the gestational age of the fetus is greater than 42 weeks and zero days, if there is inadequate time to effect safe transfer to a hospital prior to delivery or transfer may pose a threat to the health and safety of the patient or the fetus, the certified nurse-midwife may continue care of the patient consistent with the transfer plan described in subdivision (a) of Section 2746.54.
- (3) A patient who has been transferred from the care of a certified nurse-midwife to that of a physician and surgeon may return to the care of the certified nurse-midwife after the physician and surgeon has determined that the condition or circumstance that required, or would require, the transfer from the care of the nurse-midwife pursuant to paragraph (1) is resolved.
- (d) The certificate to practice nurse-midwifery authorizes the holder to attend pregnancy and childbirth in an out-of-hospital setting if consistent with subdivisions (a), (b), and (c).
- (e) This section shall not be interpreted to deny a patient's right to self-determination or informed decisionmaking with regard to choice of provider or birth setting.
- (f) The certificate to practice nurse-midwifery does not authorize the holder of the certificate to assist childbirth by vacuum or forceps extraction, or to perform any external cephalic version.
- (g) A certified nurse-midwife shall document all consultations, referrals, and transfers in the patient record.
- (h) (1) A certified nurse-midwife shall refer all emergencies to a physician and surgeon immediately.

(2) A certified nurse-midwife may provide emergency care until the assistance of a physician and surgeon is obtained.

(i) This chapter does not authorize a nurse-midwife to practice medicine or surgery.

(j) This section shall not be construed to require a physician and surgeon to sign protocols and procedures for a nurse-midwife or to permit any action that violates Section 2052 or 2400.

(k) This section shall not be construed to require a nurse-midwife to have mutually agreed-upon, signed policies and protocols for the provision of services described in subdivision (a).

(l) Notwithstanding any other law, subject to the discretion of a general acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, or a special hospital specified as a maternity hospital, as defined in subdivision (f) of Section 1250 of the Health and Safety Code, and the medical staff bylaws of that facility, a hospital may grant privileges to a certified nurse-midwife, allowing them to admit and discharge patients upon their own authority, within their scope of practice, as delineated in this section, and in accordance with organized medical staff bylaws of that facility.

**SEC. 5.** Title 1.81.49 (commencing with Section 1798.99.90) is added to Part 4 of Division 3 of the Civil Code, to read:

#### **TITLE 1.81.49. Family Planning Center Location Data**

**1798.99.90.** (a) A person or business shall not collect, use, disclose, or retain the personal information of a person who is physically located at, or within a precise geolocation of, a family planning center, except as specified in subdivision (c).

(b) For purposes of this section, the following definitions apply:

(1) "Business" means the same as defined in subdivision (c) of Section 1798.140.

(2) "Collect" means the same as defined in subdivision (f) of Section 1798.140.

(3) "Family planning center" means a business categorized as a family planning center by the North American Industry Classification System adopted by the United States Census Bureau, including, but not limited to, a clinic or center that provides reproductive health care services as defined in Section 1798.300 of the Civil Code.

(4) "Personal information" has the same definition as that term is defined in subdivision (v) of Section 1798.140, except as applied to all persons and not limited to consumers and households, as those terms are defined in subdivisions (i) and (q), respectively, of that section.

(5) "Precise geolocation" means a geographic area that is equal to or less than the area of a circle with a radius of 1,850 feet as derived from a device that is used or intended to be used to locate a person.

(6) "Sell" means the same as defined in subdivision (ad) of Section 1798.140.

(7) "Share" means the same as defined in subdivision (ah) of Section 1798.140.

(c) A person or business shall not collect, use, disclose, or retain the personal information of a person who is physically located at, or within a precise geolocation of, a family planning center, except only as necessary to perform the services or provide the goods requested by the person. A person or business shall not sell or share this personal information.

(d) (1) An aggrieved person or entity, including a family planning center, may institute and prosecute a civil action against any person or business who violates this section for injunctive and monetary relief and attorney's fees within three years of discovery of the violation.

(2) If the court finds for the petitioner in an action authorized by paragraph (1), recovery shall be in the amount of three times the amount of actual damages and any other expenses, costs, or reasonable attorney's fees incurred in connection with the litigation.

(e) This section does not apply to a provider of health care, a health care service plan, or contractor, as those terms are defined in Section 56.05.

**SEC. 6.** Title 1.81.7 (commencing with Section 1798.300) is added to Part 4 of Division 3 of the Civil Code, to read:

#### **TITLE 1.81.7. Reproductive and Gender-Affirming Health Care Services**

**1798.300.** As used in this title, the following definitions apply:

(a) "Abusive litigation" means litigation or other legal action to deter, prevent, sanction, or punish a person engaging in legally protected health care activity by either of the following:

(1) Filing or prosecuting an action in a state other than California where liability, in whole or part, directly or indirectly, is based on a legally protected health care activity that was legal in the state in which it occurred, including an action in which liability is based on a theory of vicarious, joint, or several liability.

(2) Attempting to enforce an order or judgment issued in connection with an action described in paragraph (1) by a party to that action or a person acting on behalf of a party to that action. An action shall be considered to be based on conduct that was legal in the state in which it occurred if a part of an act or omission involved in the course of conduct that forms the basis for liability in the action occurs or is initiated in a state in which the health care was legal, whether or not the act or omission is alleged or included in a pleading or other filing in the lawsuit.

(b) "Aggrieved person, provider, or other entity" includes, but is not limited to, a person who resides in California, a business or entity doing business in the state or located in the state, a health care service plan, a health insurer, a person or entity that provided a legally protected health care activity in California, a person who received a legally protected health care activity from a provider licensed in California, a person or entity that is licensed in California to provide a legally protected health care activity, including a provider, clinic, or a person who assisted a person or entity that received or provided a legally protected health care activity in California.

(c) "Gender-affirming health care services" and "gender-affirming mental health care services" have the same meaning as defined in paragraph (3) of subdivision (b) of Section 16010.2 of the Welfare and Institutions Code.

(d) (1) "Legally protected health care activity" means any of the following:

(A) The exercise and enjoyment, or attempted exercise and enjoyment, by a person of rights to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services secured by the Constitution or laws of California or the provision by a health care service plan contract or a policy, or a certificate of health insurance, that provides for such services.

(B) An act or omission undertaken to aid or encourage, or attempt to aid or encourage, a person in the exercise and enjoyment or attempted exercise and enjoyment of rights to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services secured by the Constitution or laws of California.

(C) The provision of reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services by a person duly licensed under the laws of California or the coverage of, and reimbursement for, such services or care by a health care service plan or a health insurer, if the service or care is lawful under the laws of California, regardless of the patient's location.

(2) "Legally protected health care activity" does not include any activity that would be deemed unprofessional conduct or that would violate antidiscrimination laws of California.

(e) "Reproductive health care services" means and includes all services, care, or products of a medical, surgical, psychiatric, therapeutic, diagnostic, mental health, behavioral health, preventative, rehabilitative, supportive, consultative, referral, prescribing, or dispensing nature relating to the human reproductive system provided in accordance with the constitution and laws of this state, whether provided in person or by means of telehealth services which includes, but is not limited to, all services, care, and products relating to pregnancy, the termination of a pregnancy, assisted reproduction, or contraception.

**1798.301.** Reproductive health care services, gender-affirming health care services, and gender-affirming mental health care services are rights secured by the Constitution and laws of California. Interference with these rights, whether or not under the color of law, is against the public policy of California.

**1798.302.** A public act or record of a foreign jurisdiction that prohibits, criminalizes, sanctions, authorizes a person to bring a civil action against, or otherwise interferes with a person, provider, or other entity in California that seeks, receives, causes, aids in access to, aids, abets, provides, or attempts or intends to seek, receive, cause, aid in access to, aid, abet, or provide, reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services shall be an interference with the exercise and enjoyment of the rights secured by the Constitution and laws of California and shall be a violation of the public policy of California.

**1798.303.** If a person, whether or not acting under color of law, engages or attempts to engage in abusive litigation that infringes on or interferes with, or attempts to infringe on or interfere with, a legally protected health care activity, then an aggrieved person, provider, carrier, or other entity, including a defendant in the abusive litigation, may institute a civil action for injunctive, monetary, or other appropriate relief within three years after the cause of action accrues.



**1798.304.** An aggrieved person, provider, or other entity, including a defendant in abusive litigation, may move to modify or quash a subpoena issued in connection with abusive litigation on the grounds that the subpoena is unreasonable, oppressive, or inconsistent with the public policy of California.

**1798.305.** If the court finds for the petitioner in an action authorized by Section 1798.303, recovery shall be in the amount of three times the amount of actual damages, which shall include damages for the amount of a judgment issued in connection with an abusive litigation, and any other expenses, costs, or reasonable attorney's fees incurred in connection with the abusive litigation.

**1798.306.** (a) A court may exercise jurisdiction over a person in an action authorized by Section 1798.303 if any of the following apply:

(1) Personal jurisdiction is found under Section 410.10 of the Code of Civil Procedure.

(2) The person has commenced an action in a court in California and, during the pendency of that action or an appeal therefrom, a summons and complaint is served on the person or the attorney appearing on the person's behalf in that action or as otherwise permitted by law.

(3) The exercise of jurisdiction is permitted under the Constitution of the United States.

(b) This section does not apply to a lawsuit or judgment entered in another state that is based on conduct for which a cause of action exists under the laws of California, including a contract, tort, common law, or statutory claim.

**1798.307.** Notwithstanding any other law, the laws of California shall govern in a case or controversy heard in California related to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services, except as may be required by federal law.

**1798.308.** This title shall not be construed to provide jurisdiction over a California resident in an out-of-state forum when the California resident has not availed themselves of that forum.

**SEC. 7.** Section 762.020 of the Code of Civil Procedure is amended to read:

**762.020.** (a) If the name of a person required to be named as a defendant is not known to the plaintiff, the plaintiff shall so state in the complaint and shall name as parties all persons unknown in the manner provided in Section 762.060.

(b) If the claim or the share or quantity of the claim of a person required to be named as a defendant is unknown, uncertain, or contingent, the plaintiff shall so state in the complaint. If the lack of knowledge, uncertainty, or contingency is caused by a transfer to an unborn or unascertained beneficiary or class member, or by a transfer in the form of a contingent remainder, vested remainder subject to defeasance, executory interest, or similar disposition, the plaintiff shall also state in the complaint, so far as is known to the plaintiff, the name, age, and legal disability (if any) of the person in being who would be entitled to the claim had the contingency upon which the claim depends occurred prior to the commencement of the action.

**SEC. 8.** Section 872.520 of the Code of Civil Procedure is amended to read:

**872.520.** (a) If the name of a person described in Section 872.510 is not known to the plaintiff, the plaintiff shall so state in the complaint and shall name as parties all persons unknown in the manner provided in Section 872.550.

(b) If the ownership or the share or quantity of the interest of a person described in Section 872.510 is unknown, uncertain, or contingent, the plaintiff shall so state in the complaint. If the lack of knowledge, uncertainty, or contingency is caused by a transfer to an unborn or unascertained beneficiary or class member, or by a transfer in the form of a contingent remainder, vested remainder subject to defeasance, executory interest, or similar disposition, the plaintiff shall also state in the complaint, so far as is known to the plaintiff, the name, age, and legal disability (if any) of the person in being who would be entitled to ownership of the interest had the contingency upon which the right of such person depends occurred prior to the commencement of the action.

(c) The court shall upon its own motion or upon motion of any party make such orders for joinder of additional parties and for appointment of guardians ad litem pursuant to Sections 372, 373, and 373.5 as are necessary or proper.

**SEC. 9.** Section 1710.50 of the Code of Civil Procedure is amended to read:

**1710.50.** (a) The court shall grant a stay of enforcement where:

(1) An appeal from the sister state judgment is pending or may be taken in the state which originally rendered the judgment. Under this paragraph, enforcement shall be stayed until the proceedings on appeal have been concluded or the time for appeal has expired.

(2) A stay of enforcement of the sister state judgment has been granted in the sister state. Under this paragraph, enforcement shall be stayed until the sister state stay of enforcement expires or is vacated.

(3) The judgment debtor has made a motion to vacate pursuant to Section 1710.40. Under this paragraph, enforcement shall be stayed until the judgment debtor's motion to vacate is determined.

(4) A money judgment or lien on real property was obtained against a person or entity for exercising a right guaranteed under the United States Constitution or a right guaranteed under the California Constitution, or against a person or entity for aiding and abetting the exercise of said rights. The stay of enforcement shall remain in place until such time as the statute of limitations in Section 1798.303 of the Civil Code has elapsed or an action prosecuted under Section 1798.303 has concluded, whichever is later.

(5) Any other circumstance exists where the interests of justice require a stay of enforcement.

(b) The court may grant a stay of enforcement under this section on its own motion, on ex parte motion, or on noticed motion.

(c) The court shall grant a stay of enforcement under this section on such terms and conditions as are just including but not limited to the following:

(1) The court may require an undertaking in an amount it determines to be just, but the amount of the undertaking shall not exceed double the amount of the judgment creditor's claim.

(2) If a writ of execution has been issued, the court may order that it remain in effect.

(3) If property of the judgment debtor has been levied upon under a writ of execution, the court may order the levying officer to retain possession of the property capable of physical possession and to maintain the levy on other property.

**SEC. 10.** Section 22171 of the Education Code is amended to read:

**22171.** (a) "Spouse" means a person who was continuously married to the member for the period beginning at least 12 months prior to the death of the member, unless a child is born to the member and the member's spouse within the 12-month period or unless the spouse is carrying a fetus, conceived with the member.

(b) "Spouse" also means a person who was married to the member for less than 12 months, if the member's death was either accidental, or due to an illness, and the marriage took place prior to the occurrence of the injury or diagnosis of the illness that resulted in death.

(1) A member's death is defined as accidental only if the member received bodily injuries through violent, external, or accidental means and died as a direct result of the bodily injuries and independent of all other causes.

(2) This subdivision does not apply if, at the time of the marriage, the member could not have reasonably been expected to live for 12 months.

(c) Except as excluded by Sections 22661 and 23812, a person who is the registered domestic partner of a member, as established pursuant to Section 297 or 299.2 of the Family Code, shall be treated in the same manner as a spouse.

**SEC. 11.** Section 1317.1 of the Health and Safety Code is amended to read:

**1317.1.** Unless the context otherwise requires, the following definitions shall control the construction of this article and Section 1371.4:

(a) (1) "Emergency services and care" means medical screening, examination, and evaluation by a physician and surgeon, or, to the extent permitted by applicable law, by other appropriate licensed persons under the supervision of a physician and surgeon, to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment, and surgery, if within the scope of that person's license, necessary to relieve or eliminate the emergency medical condition, within the capability of the facility.

(2) (A) "Emergency services and care" also means an additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by applicable law and within the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists, and the care and treatment necessary to relieve or eliminate the psychiatric emergency medical condition, within the capability of the facility.

(B) The care and treatment necessary to relieve or eliminate a psychiatric emergency medical condition may include admission or transfer to a psychiatric unit within a general acute care hospital, as defined in subdivision (a) of Section 1250, or to an acute psychiatric hospital, as defined in subdivision (b) of Section 1250, pursuant to subdivision (k). Nothing in this

subparagraph shall be construed to permit a transfer that is in conflict with the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code).

(C) For the purposes of Section 1371.4, emergency services and care as defined in subparagraph (A) shall not apply to Medi-Cal managed care plan contracts entered into with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), and Chapter 8.75 (commencing with Section 14590) of Part 3 of Division 9 of the Welfare and Institutions Code, to the extent that those services are excluded from coverage under those contracts.

(D) This paragraph does not expand, restrict, or otherwise affect the scope of licensure or clinical privileges for clinical psychologists or other medical personnel.

(b) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

- (1) Placing the patient's health in serious jeopardy.
- (2) Serious impairment to bodily functions.
- (3) Serious dysfunction of any bodily organ or part.

(c) "Active labor" means a labor at a time at which either of the following would occur:

- (1) There is inadequate time to effect safe transfer to another hospital prior to delivery.
- (2) A transfer may pose a threat to the health and safety of the patient or the fetus.

(d) "Hospital" means all hospitals with an emergency department licensed by the state department.

(e) "State department" means the State Department of Public Health.

(f) "Medical hazard" means a material deterioration in medical condition in, or jeopardy to, a patient's medical condition or expected chances for recovery.

(g) "Board" means the Medical Board of California.

(h) "Within the capability of the facility" means those capabilities that the hospital is required to have as a condition of its emergency medical services permit and services specified on Services Inventory Form 7041 filed by the hospital with the Department of Health Care Access and Information.

(i) "Consultation" means the rendering of an opinion or advice, prescribing treatment, or the rendering of a decision regarding hospitalization or transfer by telephone or other means of communication. When determined to be medically necessary, jointly by the treating physician and surgeon, or by other appropriate licensed persons acting within their scope of licensure, under the supervision of a physician and surgeon, and the consulting physician and surgeon, "consultation" includes review of the patient's medical record, examination, and treatment of the patient in person by a consulting physician and surgeon, or by other appropriate licensed persons acting within their scope of licensure under the supervision of a consulting physician and surgeon, who is qualified to give an opinion or render the necessary treatment in order to stabilize the patient. A request for consultation shall be made by the treating physician and surgeon, or by other appropriate licensed persons acting within their scope of licensure under the supervision of a treating physician and surgeon, provided the request is made with the contemporaneous approval of the treating physician and surgeon. The treating physician and surgeon may request to communicate directly with the consulting physician and surgeon, and when determined to be medically necessary, jointly by the treating physician and surgeon and the consulting physician and surgeon, the consulting physician and surgeon shall examine and treat the patient in person. The consulting physician and surgeon is ultimately responsible for providing the necessary consultation to the patient, regardless of who makes the in-person appearance.

(j) A patient is "stabilized" or "stabilization" has occurred when, in the opinion of the treating physician and surgeon, or other appropriate licensed persons acting within their scope of licensure under the supervision of a treating physician and surgeon, the patient's medical condition is such that, within reasonable medical probability, no material deterioration of the patient's condition is likely to result from, or occur during, the release or transfer of the patient as provided for in Section 1317.2, Section 1317.2a, or other pertinent statute.

(k) (1) "Psychiatric emergency medical condition" means a mental disorder that manifests itself by acute symptoms of sufficient severity that it renders the patient as being either of the following:

(A) An immediate danger to themselves or to others.

(B) Immediately unable to provide for, or utilize, food, shelter, or clothing, due to the mental disorder.

(2) This subdivision does not expand, restrict, or otherwise affect the scope of licensure or clinical privileges for clinical psychologists or medical personnel.

(l) This section shall not be construed to expand the scope of licensure for licensed persons providing services pursuant to this section.

**SEC. 12.** Section 123450 of the Health and Safety Code is repealed.

**SEC. 13.** Section 123468.5 is added to the Health and Safety Code, to read:

**123468.5.** (a) (1) California law governs in any action in this state, whether civil, administrative, or criminal, against any person who provides, receives, aids or abets in providing or receiving, or attempts to provide or receive, by any means, including telehealth, the health care services described in paragraph (2) if the provider was located in this state or any other state where the care was legal at the time of the challenged conduct.

(2) Reproductive health care services and gender-affirming health care services, including gender-affirming mental health care services, are subject to paragraph (1).

(b) "Reproductive health" has the same meaning as set forth in Section 1798.300 of the Health and Safety Code.

(c) "Gender-affirming health care services" and "gender-affirming mental health care services" have the same meaning as defined in paragraph (3) of subdivision (b) of Section 16010.2 of the Welfare and Institutions Code.

**SEC. 14.** Section 187 of the Penal Code is amended to read:

**187.** (a) Murder is the unlawful killing of a human being, or a fetus, with malice aforethought.

(b) This section shall not apply to any person who commits an act that results in the death of a fetus if any of the following apply:

(1) The act complied with the former Therapeutic Abortion Act (Article 2 (commencing with Section 123400) of Chapter 2 of Part 2 of Division 106 of the Health and Safety Code) or 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) The act was committed by a holder of a physician's and surgeon's certificate, as defined in the Business and Professions Code, in a case where, to a medical certainty, the result of childbirth would be death of the person pregnant with the fetus or where the pregnant person's death from childbirth, although not medically certain, would be substantially certain or more likely than not.

(3) It was an act or omission by the person pregnant with the fetus or was solicited, aided, abetted, or consented to by the person pregnant with the fetus.

(c) Subdivision (b) shall not be construed to prohibit the prosecution of any person under any other provision of law.

**SEC. 15.** Section 847.5 of the Penal Code is amended to read:

**847.5.** (a) Except as provided in subdivision (b), if a person has been admitted to bail in another state, escapes bail, and is present in this state, the bail bondsman or other person who is bail for such fugitive, may file with a magistrate in the county where the fugitive is present an affidavit stating the name and whereabouts of the fugitive, the offense with which the alleged fugitive was charged or of which they were convicted, the time and place of same, and the particulars in which the fugitive has violated the terms of their bail, and may request the issuance of a warrant for arrest of the fugitive, and the issuance, after hearing, of an order authorizing the affiant to return the fugitive to the jurisdiction from which they escaped bail. The magistrate may require such additional evidence under oath as they deem necessary to decide the issue. If the magistrate concludes that there is probable cause for believing that the person alleged to be a fugitive is such, the magistrate may issue a warrant for the person's arrest. The magistrate shall notify the district attorney of the action and shall direct the district attorney to investigate the case and determine the facts of the matter. When the fugitive is brought before the magistrate pursuant to the warrant, the magistrate shall set a time and place for hearing, and shall advise the fugitive of their right to counsel and to produce evidence at the hearing. The magistrate may admit the fugitive to bail pending the hearing. The district attorney shall appear at the hearing. If, after hearing, the magistrate is satisfied from the evidence that the person is a fugitive, the magistrate may issue an order authorizing affiant to return the fugitive to the jurisdiction from which they escaped bail.

(b) A magistrate shall not issue a warrant for the arrest of an individual whose alleged offense or conviction is for the violation of the laws of another state that authorize a criminal penalty to an individual performing, receiving, supporting, or aiding in the performance or receipt of sexual or reproductive health care, including, but not limited to, an abortion, contraception, or gender-affirming care if the sexual or reproductive health care is lawful under the laws of this state, regardless of the recipient's location.

(c) A bondsman or person authorized, pursuant to subdivision (a) of Section 1299.02, to apprehend, detain, or arrest a fugitive admitted to bail in another state who takes into custody a fugitive admitted to bail in another state whose alleged offense or conviction is for the violation of the laws of another state that authorize a criminal penalty to an individual performing, receiving, supporting, or aiding in the performance or receipt of an abortion, contraception, reproductive care, or gender-affirming care if the abortion, contraception, reproductive care, or gender-affirming care is lawful under the laws of this state, regardless of the recipient's location, without a magistrate's order, is ineligible for a license issued pursuant to Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code or Section 1800 of the Insurance Code, and shall forfeit any license already obtained pursuant to those laws.

(d) A person who is taken into custody by a bail agent in violation of subdivision (b) may institute and prosecute a civil action for injunctive, monetary, or other appropriate relief against the bondsman and bond company within three years after the cause of action accrues.

(e) A bondsman or other person who is bail for a fugitive admitted to bail in another state who takes the fugitive into custody, except pursuant to an order issued under this section, is guilty of an infraction punishable by a fine of five thousand dollars (\$5,000).

**SEC. 16.** Section 1299.02 of the Penal Code is amended to read:

**1299.02.** (a) No person, other than a certified law enforcement officer, shall be authorized to apprehend, detain, or arrest a bail fugitive unless that person meets one of the following conditions:

(1) Is a bail as defined in paragraph (2) of subdivision (a) of Section 1299.01 who is also a bail fugitive recovery agent as defined in paragraph (4) of subdivision (a) of Section 1299.01.

(2) Is a bail fugitive recovery agent as defined in paragraph (4) of subdivision (a) of Section 1299.01.

(3) Is a licensed private investigator as provided in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code who is also a bail fugitive recovery agent as defined in paragraph (4) of subdivision (a) of Section 1299.01.

(b) This article shall not prohibit an arrest pursuant to Sections 837, 838, and 839, provided that no consideration is paid or allowed, directly or indirectly, to any person effecting an arrest pursuant to Sections 837, 838, and 839.

(c) Individuals who hold a bail license, bail fugitive recovery license, bail enforcer license, bail runner license, or private investigator license issued by another state shall not apprehend, detain, or arrest bail fugitives in California, unless that individual obtains a bail fugitive recovery agent license issued in this state and complies with California law.

(d) A person authorized, pursuant to subdivision (a), to apprehend, detain, or arrest a bail fugitive shall not apprehend, detain, or arrest a bail fugitive admitted to bail in another state whose alleged offense or conviction was for the violation of the laws of another state that authorize a criminal penalty to an individual performing, receiving, supporting, or aiding in the performance or receipt of sexual or reproductive health care, including, but not limited to, an abortion, contraception, or gender-affirming care if the sexual or reproductive health care is lawful under the laws of this state, regardless of the recipient's location. A person who violates this subdivision is guilty of an infraction punishable by a fine of five thousand dollars (\$5,000), is ineligible for a license issued pursuant to Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code or Section 1800 of the Insurance Code, and shall forfeit any license already obtained pursuant to those laws. A person who is taken into custody by a bail agent in violation of this subdivision may institute and prosecute a civil action for injunctive, monetary, or other appropriate relief against the bail fugitive recovery agent within three years after the cause of action accrues.

(e) This section shall become operative on July 1, 2023.

**SEC. 17.** Section 1334.2 of the Penal Code is amended to read:

**1334.2.** (a) Except as provided in subdivision (f), if a judge of a court of record in any state, which by its laws provides for commanding persons within that state to attend and testify in this state, issues a certificate under the seal of the court that there is a criminal prosecution pending in the court, or that there is a grand jury investigation, that a person within this state is a material witness in that prosecution or grand jury investigation, and that their presence will be required for a specified number of days,

then, upon presentation of the certificate to a judge of a court of record in the county in which the person is, a time and place for a hearing shall be fixed by the judge and the judge shall make an order directing the witness to appear at the hearing.

(b) If, at the hearing, the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending or in which there is a grand jury investigation will give to the witness protection from arrest and service of civil and criminal process and will furnish in advance to the witness the sum of ten cents (\$0.10) for each mile necessarily traveled if the witness elects surface travel or the minimum round trip scheduled airline fare plus twenty cents (\$0.20) a mile for necessary surface travel at either end of the flight if the witness elects air travel, and, except as provided in subdivision (b) of Section 1334.3, a per diem of twenty dollars (\$20) for each day that they are required to travel and attend as a witness and that the judge of the court in which the witness is ordered to appear will order the payment of witness fees authorized by law for each day the witness is required to attend the court plus reimbursement for any additional expenses of the witness which the judge of the court in which the witness is ordered to appear shall find reasonable and necessary, the judge shall issue a subpoena, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where the grand jury investigation is, at a time and place specified in the subpoena. In any of these hearings the certificate shall be prima facie evidence of all the facts stated therein.

(c) If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure the witness' attendance therein, the judge may, in lieu of notification of the hearing, direct that the witness be forthwith brought before the judge for the hearing.

(d) If the judge at the hearing is satisfied of the desirability of the custody and delivery, for which determination the certificate shall be prima facie proof of this desirability, the judge may, in lieu of issuing a subpoena, order that the witness be forthwith taken into custody and delivered to an officer of the requesting state.

(e) If the witness, who is subpoenaed as provided in this section, after being paid or tendered by some properly authorized person the sum or fare, and per diem set forth in this section, fails without good cause to attend and testify as directed in the subpoena, the witness shall be punished in the manner provided for the punishment of any witness who disobeys a subpoena issued from a court of record in this state.

(f) A judge shall not issue an order directing a witness to appear pursuant to this section if the criminal prosecution is based on the laws of another state that authorize a criminal penalty to an individual performing, receiving, supporting, or aiding in the performance or receipt of sexual or reproductive health care, including, but not limited to, an abortion, contraception, or gender-affirming care if the sexual or reproductive health care is lawful under the laws of this state.

**SEC. 18.** Section 1549.15 is added to the Penal Code, to read:

**1549.15.** For purposes of this section, the following terms have the following meanings:

(a) "Gender-affirming health care" and "gender-affirming mental health care" have the same meaning as in paragraph (3) of subdivision (b) of Section 16010.2 of the Welfare and Institutions Code.

(b) (1) "Legally protected health care activity" means any of the following:

(A) The exercise and enjoyment, or attempted exercise and enjoyment, by a person of rights to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services secured by the Constitution or laws of California or the provision by a health care service plan contract or a policy, or a certificate of health insurance, that provides for such services.

(B) An act or omission undertaken to aid or encourage, or attempt to aid or encourage, a person in the exercise and enjoyment or attempted exercise and enjoyment of rights to reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services secured by the Constitution or laws of California.

(C) The provision of reproductive health care services, gender-affirming health care services, or gender-affirming mental health care services by a person duly licensed under the laws of California or the coverage of, and reimbursement for, those services or care by a health care service plan or a health insurer, if the service or care is lawful under the laws of California, regardless of the patient's location.

(2) "Legally protected health care activity" does not include any activity that would be deemed unprofessional conduct or that would violate antidiscrimination laws of California.

(c) "Reproductive health care services" means and includes all services, care, or products of a medical, surgical, psychiatric, therapeutic, diagnostic, mental health, behavioral health, preventative, rehabilitative, supportive, consultative, referral, prescribing, or dispensing nature relating to the human reproductive system provided in accordance with the constitution and laws

of this state, whether provided in person or by means of telehealth services which includes, but is not limited to, all services, care, and products relating to pregnancy, the termination of a pregnancy, assisted reproduction, or contraception.

**SEC. 19.** Section 13778.3 is added to the Penal Code, to read:

**13778.3.** (a) For purposes of this section, the following terms shall have the following meaning:

- (1) "Gender-affirming health care" and "gender-affirming mental health care" have the same meaning as in paragraph (3) of subdivision (b) of Section 16010.2 of the Welfare and Institutions Code.
- (2) "Legally protected health care activity" shall have the same meaning as in Section 1549.15.
- (3) "Reproductive health care services" shall have the same meaning as in Section 1549.15.
- (4) "California corporation" refers to any corporation or other entity that is subject to Section 102 of the Corporations Code, with the exception of foreign corporations.

(b) A state or local government employee, person or entity contracted by a state or local government, or person or entity acting on behalf of a local or state government shall not cooperate with or provide information to any individual, including a bondsman or person authorized, pursuant to subdivision (a) of Section 1299.02, to apprehend, detain, or arrest a fugitive admitted to bail in another state, or out-of-state agency or department regarding any legally protected health care activity or otherwise expend or use time, moneys, facilities, property, equipment, personnel, or other resources in furtherance of any investigation or proceeding that seeks to impose civil or criminal liability or professional sanctions upon a person or entity for any legally protected health care activity that occurred in this state or that would be legal if it occurred in this state.

(c) This section does not prohibit compliance with a valid, court-issued subpoena, warrant, wiretap order, pen register trap and trace order, or other legal process which does not relate to a law seeking to impose civil or criminal liability or professional sanctions for a legally protected health care activity, or in response to the written request of a person who is the subject of such an investigation or proceeding, to the extent necessary, in each case, to fulfill such request.

(d) Any out-of-state subpoena, warrant, wiretap order, pen register trap and trace order, legal process, or request from any law enforcement agent or entity shall include an affidavit or declaration under penalty of perjury that the discovery is not in connection with an out-of-state proceeding relating to any legally protected health care activity unless the out-of-state proceeding meets all of the following requirements:

- (1) Is based in tort, contract, or on statute.
- (2) Is actionable, in an equivalent or similar manner, under the laws of this state.
- (3) Was brought by the patient who received a legally protected health care activity or the patient's legal representative.

(e) A state court, judicial officer, court employee or clerk, or authorized attorney shall not issue a subpoena pursuant to any other state's law unless it includes the affidavit or declaration defined in subdivision (d).

(f) A California corporation that provides electronic communication services or remote computing services to the general public shall not comply with an out of state subpoena, warrant, wiretap order, pen register trap and trace order, other legal process, or request by a law enforcement agent or entity seeking records that would reveal the identity of the customers using those services, data stored by, or on behalf of, the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications, unless the out of state subpoena, warrant, wiretap order, pen register trap and trace order, other legal process, or request from law enforcement includes the affidavit or declaration defined in subdivision (d). A corporation subject to this subdivision is entitled to rely on the representations made in the affidavit or declaration.

**SEC. 20.** Section 1003 of the Probate Code is amended to read:

**1003.** (a) The court may, on its own motion or on request of a personal representative, guardian, conservator, trustee, or other interested person, appoint a guardian ad litem at any stage of a proceeding under this code to represent the interest of any of the following persons, if the court determines that representation of the interest otherwise would be inadequate:

- (1) A minor.
- (2) A person who lacks legal capacity to make decisions.
- (3) An unborn beneficiary.

(4) An unascertained person.

(5) A person whose identity or address is unknown.

(6) A designated class of persons who are not ascertained or are not in being.

(b) If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests.

(c) The reasonable expenses of the guardian ad litem, including compensation and attorney's fees, shall be determined by the court and paid as the court orders, either out of the property of the estate involved or by the petitioner or from any other source as the court orders.

(d) Before a court appoints a guardian ad litem pursuant to this chapter, a proposed guardian ad litem shall disclose both of the following to the court and all parties to the action or proceeding:

(1) Any known actual or potential conflicts of interest that would or might arise from the appointment.

(2) Any familial or affiliate relationship the proposed guardian ad litem has with any of the parties.

(e) If a guardian ad litem becomes aware that a potential conflict of interest has become an actual conflict of interest or that a new potential or actual conflict of interest exists, the guardian ad litem shall promptly disclose the conflict of interest to the court.

**SEC. 21.** Section 10954 of the Probate Code is amended to read:

**10954.** (a) Notwithstanding any other provision of this part, the personal representative is not required to file an account if any of the following conditions is satisfied as to each person entitled to distribution from the estate:

(1) The person has executed and filed a written waiver of account or a written acknowledgment that the person's interest has been satisfied.

(2) Adequate provision has been made for satisfaction in full of the person's interest. This paragraph does not apply to a residuary devisee or a devisee whose interest in the estate is subject to abatement, payment of expenses, or accrual of interest or income.

(b) A waiver or acknowledgment under subdivision (a) shall be executed as follows:

(1) If the person entitled to distribution is an adult and competent, by that person.

(2) If the person entitled to distribution is a minor, by a person authorized to receive money or property belonging to the minor. If the waiver or acknowledgment is executed by a guardian of the estate of the minor, the waiver or acknowledgment may be executed without the need to obtain approval of the court in which the guardianship proceeding is pending.

(3) If the person entitled to distribution is a conservatee, by the conservator of the estate of the conservatee. The waiver or acknowledgment may be executed without the need to obtain approval of the court in which the conservatorship proceeding is pending.

(4) If the person entitled to distribution is a trust, by the trustee, but only if the named trustee's written acceptance of the trust is filed with the court. In the case of a trust that is subject to the continuing jurisdiction of the court pursuant to Chapter 4 (commencing with Section 17300) of Part 5 of Division 9, the waiver or acknowledgment may be executed without the need to obtain approval of the court.

(5) If the person entitled to distribution is an estate, by the personal representative of the estate. The waiver or acknowledgment may be executed without the need to obtain approval of the court in which the estate is being administered.

(6) If the person entitled to distribution is incapacitated, is an unborn beneficiary, is unascertained, or is a person whose identity or address is unknown, or is a designated class of persons who are not ascertained or are not in being, and there is a guardian ad litem appointed to represent the person entitled to distribution, by the guardian ad litem.

(7) If the person entitled to distribution has designated an attorney in fact who has the power under the power of attorney to execute the waiver or acknowledgment, by either of the following:

(A) The person entitled to distribution if an adult and competent.

(B) The attorney in fact.

(c) Notwithstanding subdivision (a):



(1) The personal representative shall file a final report of administration at the time the final account would otherwise have been required. The final report shall include the amount of compensation paid or payable to the personal representative and to the attorney for the personal representative and shall set forth the basis for determining the amounts.

(2) A creditor whose interest has not been satisfied may petition under Section 10950 for an account.

**SEC. 22.** Section 15405 of the Probate Code is amended to read:

**15405.** For the purposes of Sections 15403 and 15404, the consent of a beneficiary who lacks legal capacity, including a minor, or who is an unascertained or unborn beneficiary may be given in proceedings before the court by a guardian ad litem, if it would be appropriate to do so. In determining whether to give consent, the guardian ad litem may rely on general family benefit accruing to living members of the beneficiary's family as a basis for approving a modification or termination of the trust.

**SEC. 23.** Section 19507 of the Probate Code is amended to read:

**19507.** (a) In this section, a notice period begins on the day notice is given under subdivision (c) and ends 59 days after the day notice is given.

(b) An authorized fiduciary may exercise the decanting power without the consent of any person and without court approval in compliance with this part.

(c) Except as otherwise provided in subdivision (h), an authorized fiduciary shall give notice of the intended exercise of the decanting power not later than 60 days before the exercise to all of the following:

- (1) Each settlor of the first trust, if living or then in existence.
- (2) Each qualified beneficiary of the first trust.
- (3) Each holder of a presently exercisable power of appointment over any part or all of the first trust.
- (4) Each person that currently has the right to remove or replace the authorized fiduciary.
- (5) Each other fiduciary of the first trust.
- (6) Each fiduciary of the second trust.
- (7) The Attorney General, if subdivision (b) of Section 19514 applies.

(d) Unless the trust instrument provides otherwise, an authorized fiduciary shall give notice under subdivision (c) to the guardian ad litem for a qualified beneficiary who is a minor and has no representative or who is an unascertained or unborn beneficiary. If a guardian ad litem has not been appointed at the time of the notice, the authorized fiduciary shall seek the appointment of one. The court may appoint a guardian ad litem, for purposes of this section, in instances where the only matter before the court is that appointment.

(e) If an authorized fiduciary knows, or has reason to know, that a person entitled to notice under subdivision (c) is substantially unable to manage that person's own financial resources or resist fraud or undue influence, the authorized fiduciary shall give notice under subdivision (c) to that person and to the individual appointed to act on that person's behalf, including, but not limited to, an attorney-in-fact under a power of attorney. If no such individual has been appointed at the time of the notice, the authorized fiduciary shall seek the appointment of such an individual. The court may appoint a guardian ad litem, for purposes of this section, in instances where the only matter before the court is that appointment.

(f) An authorized fiduciary is not required to give notice under subdivision (c) to a person who is known to the fiduciary but cannot be located by the fiduciary after reasonable diligence.

(g) A notice under subdivision (c) shall include all of the following:

- (1) A description of the manner in which the authorized fiduciary intends to exercise the decanting power, which shall include a statement as to the authorized fiduciary's reason for the proposed decanting and an explanation as to the differences between the first trust and the second trust or trusts.
- (2) The proposed effective date for exercise of the power.
- (3) A copy of the first trust instrument.
- (4) A copy of all second trust instruments.

(5) A warning, set out in a separate paragraph in not less than 10-point bold type, or a reasonable equivalent thereof, that states the following:

"If you do not bring a court action to contest the proposed trust decanting (the proposed changes to the trust) within 59 days of this notice, you will lose your right to contest the decanting."

(h) The decanting power may be exercised before expiration of the notice period under subdivision (a) if all persons entitled to receive notice waive the period in a signed waiver.

(i) The receipt of notice, waiver of the notice period, or expiration of the notice period does not affect the right of a person to file an application under Section 19509 that asserts either of the following:

(1) An attempted exercise of the decanting power is ineffective because it did not comply with this part or was an abuse of discretion or breach of fiduciary duty.

(2) Section 19522 applies to the exercise of the decanting power.

(j) The notice required by this section shall be served by mail to the last known address, pursuant to Section 1215, or by personal delivery.

**SEC. 24.** Section 11486.5 of the Welfare and Institutions Code is amended to read:

**11486.5.** (a) An individual shall not be eligible for aid under this chapter if the individual is either:

(1) Fleeing to avoid prosecution, or custody and confinement after conviction, under the laws of the place from which the individual is fleeing, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual is fleeing, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that state. For the purposes of this section, an individual shall be determined to be fleeing to avoid prosecution, or custody and confinement after conviction, if a federal, state, or local law enforcement officer, acting in an official capacity, presents an outstanding felony arrest warrant containing one or more of the following National Crime Information Center Offense Classification Codes:

(A) Escape (4901).

(B) Flight to Avoid (4902).

(C) Flight-Escape (4999).

(2) Violating a condition of probation or parole imposed under federal law or the law of any state.

(b) Subdivision (a) shall not apply with respect to conduct of an individual for any month beginning after the President of the United States grants a pardon with respect to the conduct.

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

**SEC. 27.** Section 4.5 of this bill incorporates amendments to Section 2746.5 of the Business and Professions Code proposed by both this bill and Senate Bill 667. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 2746.5 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 667, in which case Section 4 of this bill shall not become operative.