



San Mateo County Bill Analysis Form

Date Submitted: June 22, 2022
Submitted Department: County Executive's Office
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Reviewed and Approved by County Attorney
☒ Yes ☐ No

Reviewed and Approved by County Executive
☒ Yes ☐ No ☐ N/A

Senate Bill 107 Senator Wiener, District 11, Gender-affirming health care.

Version Date: June 6, 2022

☐ New bill ☒ Amended Bill ☐ Gut & Amend

Recommended Position

☐ Sponsor ☐ Support
☐ Support if Amended ☐ Oppose
☒ Other & Describe: Supervisors Pine and Groom request the Board support this measure

Summary

Senate Bill (SB) 107 (Wiener) seeks to make California a refuge for transgender and gender-diverse teens and their families, where they can secure care without facing criminal or civil penalties. The bill would prohibit health care providers and service plans, law enforcement agencies, and legal entities across the state from providing sensitive medical information, participating in arrests, and issuing subpoenas in proceedings that relate to another state's law that interferes with a person's right to allow a child to receive gender-affirming health care.

Background/Analysis

The American Academy of Pediatrics (AAP) estimates that 0.7% of youth ages 13 to 17 years (~150,000) identify as transgender or gender-diverse in the United States. Children report being aware of gender incongruence at young ages. Children who identify as transgender or gender-diverse report recognizing their gender as "different" at an average age of 8.5 years old.

Adolescents and adults who identify as transgender or gender-diverse have high rates of depression, anxiety, eating disorders, self-harm, and suicide. The Trevor Project's 2021 National Survey on LGBTQ Youth Mental Health found that 52% of LGBTQ youth seriously considered attempting suicide in the past year. Further, youth who identify as transgender or gender-diverse experience disproportionately high rates of homelessness, physical violence, substance abuse, and high-risk sexual behaviors.

According to the AAP, failing to provide evidence-based information to assist transgender and gender-diverse youth and families in medical decision-making can prolong or exacerbate gender dysphoria and contribute to abuse and stigmatization. Further, the AAP notes that any discrimination based on gender identity or expression, real or perceived, damages the socioemotional health of children, families, and society. The AAP recommends that "youth who identify as transgender have access to comprehensive, gender-affirming, and developmentally appropriate health care provided in a safe and inclusive clinical space."

As defined by the World Health Organization, gender-affirmative health care can include any single or combination of several social, psychological, behavioral, or medical (including hormonal treatment or surgery) interventions designed to support and affirm an individual's gender identity. According to the American Association of Medical Colleges, for children, the timing of the interventions is based on several factors, including cognitive and physical development and parental consent. Surgery, including reducing a person's Adam's Apple, or aligning their chest or genitalia with their gender identity, is rarely provided to people under 18.

Transgender or gender-diverse youth who are given access to gender-affirming care are 60% less likely to have moderate to severe depression and are 73% less suicidal, according to the Journal of the American Medical Association.

Challenge

Many states have passed laws, are in the process of passing laws, or have taken executive-level actions restricting transgender or gender-diverse children and teens' ability to obtain gender-affirming medical treatment. A sample of state actions is listed below:

- **Alabama:** In April of 2022, the *Alabama Vulnerable Child Compassion and Protection Act* went into effect. This law makes it a felony, punishable by up to 10 years in prison, for a doctor to prescribe puberty blockers or hormones or perform surgery to aid in the gender transition of people under age 19. It also requires school counselors, nurses, and others to notify parents if a child discloses that they may be transgender or gender-diverse. This law is being challenged in federal court.
- **Arkansas:** In 2021, Arkansas's legislature overrode Governor Asa Hutchinson's veto to enact the *Save Adolescents from Experimentation Act*, which prohibits delivering gender-affirming medical care to anyone under 18, even when they have parental consent. Health care providers who offered such care could lose their license or be vulnerable to civil litigation. Enforcement of this law is on pause due to a legal challenge.
- **Arizona:** In March 2022, the Arizona Legislature passed a bill prohibiting gender reassignment surgery for minors. It is uncertain whether Governor Doug Ducey will sign the bill.
- **Florida:** In April 2022, the Florida Department of Health released guidance to bar gender-affirming care for youth. It recommends against medical transition, including puberty blockers and hormone therapy. It also advises against "social gender transition," which can include wearing gender-affirming hairstyles or clothing.
- **Idaho:** The Idaho House of Representatives overwhelmingly passed a bill that would have made it a felony for parents to consent to and for medical professionals to provide gender-affirming care to minors. It would have also made it illegal for parents to take their children out of state to seek this treatment. The Idaho Senate killed the bill.
- **Oklahoma:** Earlier this year, Oklahoma legislators

introduced a bill prohibiting any person under 18 from undergoing gender-affirming treatment in the state. Physicians providing such care would be at risk of losing their licenses.

- **Texas:** In early 2022, Governor Greg Abbott ordered that families with transgender or gender-diverse children receiving medical treatment be inspected for child abuse, stipulating those doctors, nurses, and teachers are legally required to report parents who aid their child in receiving this care to the Texas Department of Family and Protective Services.

To date, there are about 15 states that have enacted or are pursuing laws to prohibit specific gender-affirming treatments for youth. A report from the Williams Institute at UCLA School of Law estimates that more than 54,000 transitioning youth ages 13 through 17 are at risk of losing access to gender-affirming medical care.

Solution/Recommended Proposal

SB 107 aims to protect families of transgender or gender-diverse youth who have fled their home states.

SB 107 defines "gender-affirming health care" to mean medically necessary health care that respects the gender identity of the patient, as experienced and defined by the patient, and may include, but is not limited to, interventions to suppress the development of endogenous secondary sex characteristics, interventions to align the patient's appearance or physical body with the patient's gender identity, and interventions to alleviate symptoms of clinically significant distress resulting from gender dysphoria.

Specifically, SB 107 would:

- Prohibit a health care provider from releasing medical information related to providing a child with gender-affirming care in response to any civil or criminal action based on another state's law that authorizes civil action against doing so.
- Block out-of-state court judgments related to gender-affirming care from being recognized by California courts.
- Prohibit the enforcement of an order based on another state's law authorizing a child to be removed from their parents based on those parents

allowing their child to receive gender-affirming health care.

- Void any subpoena seeking the disclosure of medical information related to “sensitive services,” which includes gender-affirming care, and 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.
- Prohibit all California law enforcement agencies from participating in the arrest of an individual under an out-of-state arrest warrant for violation of another state’s law against receiving or allowing a child to receive gender-affirming health care.
- Declare that an out-of-state arrest warrant for an individual based on violating another state’s law prohibiting gender-affirming health care for children is the lowest law enforcement policy.
- Prohibit the extradition of an individual charged with violating another state’s law that criminalizes the provision of gender-affirming health care.

SB 107 would also declare the provisions of the act severable so that if any provision of the act is held invalid, that invalidity will not affect other provisions of the act.

Senator Wiener has expressed hope that this bill will serve as a national model. Sponsors of this bill plan to introduce similar legislation in at least 16 other states to create a “rainbow wall” to provide refuge to transgender or gender-diverse children and their families.

Departments Impacted & Why

Behavioral Health and Recovery Services (BHRS) within the San Mateo County Health System does not have concerns regarding SB 107 but does raise a few questions about the bill:

1. Should the bill specifically prohibit the names of the parents and children and their personal information from being shared?
2. Should the bill also include school personnel, as school personnel may be holders of sensitive information?

Further, BHRS notes that if SB 107 becomes state law, the County may wish to consider future messaging and training

to inform our schools, community, and healthcare workers.

The Sheriff’s Office does not anticipate any impacts of SB 107 on its operations.

Fiscal Impact

There is no anticipated fiscal impact on the County if SB 107 is enacted.

Support

Equality California (co-sponsor)
Planned Parenthood Action (co-sponsor)
California Coalition for Youth
California Department of Insurance
City of Encinitas
City of Long Beach
Naral Pro-Choice California
National Association of Social Workers, California Chapter
Office of Lieutenant Governor Eleni Kounalakis

Opposition

California Family Council
Family Watch International
Our Duty
Partners for Ethical Care
Women’s Declaration International

Status

1/5/21—Introduced as a bill related to CalFresh
1/6/22—Passed the Senate Floor as a 2-year bill
4/28/22—Gutted and amended into its current form and referred to the Assembly Judiciary Committee
6/5/22—Passed the Assembly Judiciary Committee with Amendments
6/28/22—Set for hearing in the Assembly Public Safety Committee