**An Act to Safeguard Gender-affirming Health Care**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec.** **8. 19-A MRSA §1752, sub-§4** is enacted to read:

**4.** **Prohibition.**  In making a determination under this section, a court may not consider as a factor weighing against the petitioner any taking of the child, or retention of the child after a visit or other temporary relinquishment of physical custody, from the person who has legal custody, if there is evidence that the taking or retention of the child was for the purposes of obtaining gender-affirming health care or gender-affirming mental health care for the child and the law or policy of the other state limits the ability of a parent to obtain gender-affirming health care or gender-affirming mental health care for the parent's child.

**Sec.** **9. 22 MRSA §1711-C, sub-§8,** as amended by PL 2011, c. 373, §2, is repealed and the following enacted in its place:

**8.** **Prohibited disclosure.**  A health care practitioner, facility or state-designated statewide health information exchange may not disclose health care information:

A. For the purpose of marketing or sales without written or oral authorization for the disclosure; or

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

For the purposes of this paragraph, "gender‑affirming health care" and "gender‑affirming mental health care" have the same meanings as in Title 19‑A, section 1732.

**SUMMARY**

This bill prohibits the enforcement of an order based on another state's law authorizing a child to be removed from the child's parent or guardian based on that parent or guardian allowing the child to receive gender-affirming health care or gender-affirming mental health care. The bill prohibits a court from finding that it is an inconvenient forum if the law or policy of another state that may take jurisdiction limits the ability of a parent to obtain gender-affirming health care or gender-affirming mental health care for a child and the provision of that care is at issue in the case before the court. The bill authorizes a court to take temporary jurisdiction because a child has been unable to obtain gender-affirming health care or gender‑affirming mental health care. The bill prohibits a court from considering the taking or retention of a child from a person who has legal custody of the child if the taking or retention was for obtaining gender-affirming health care or gender‑affirming mental health care for the child. The bill prohibits a health care practitioner, health care facility or state‑designated statewide health information exchange from releasing medical information related to a person or entity allowing a child to receive gender-affirming health care or gender-affirming mental health care in response to a criminal or civil action, including a foreign subpoena, based on another state's law that authorizes a person to bring a civil or criminal action against a person or entity that allows a child to receive gender-affirming health care or gender-affirming mental health care. The bill prohibits law enforcement agencies from knowingly making or participating in the arrest or extradition of an individual pursuant to an out-of-state arrest warrant based on another state's law against providing, receiving or allowing a child to receive gender-affirming health care or gender-affirming mental health care in this State.