

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 1854 (Krell)
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Fiscal: Yes
Urgency: No
AM

SUBJECT

Legally protected health care activities

DIGEST

This bill prohibits a state or local law enforcement agency from knowingly causing the arrest of or arresting any person who the Governor has declined to surrender on the demand of the executive authority of any other state where the accused was not in the demanding state at the time of the commission of the crime and has not fled from another state, expands certain protections under the Penal Code related to providing legally protected healthcare activities to regardless of where the patient is located so long as the provision is lawful under the laws of this state.

EXECUTIVE SUMMARY

In the past few years, both the federal government and other states have begun demanding information from various businesses and health care providers related to reproductive health care and gender-affirming health care services, with the goal of intimidating and discouraging individuals from seeking and receiving these services. At the beginning of this year, Louisiana sought extradition of a California doctor that Louisiana accused of violating its abortion laws by providing abortion medication through telehealth.¹ Governor Newsom denied Louisiana's request pointing to his Executive Order Number 12-22 which, among other things, specifically stated that the Governor's Office would "decline any request received from the executive authority of any other state to issue a warrant for the arrest or surrender of any person charged with a criminal violation of a law of that other state where the violation alleged involves the Provision of, receipt of, or assistance with reproductive health care services, unless required by the U.S. Constitution or the acts forming the basis of the prosecution of the crime charged would also constitute a criminal offense under the laws of California."

¹ Sara Cline, Associated Press, *Louisiana seeks California doctor's extradition, testing the limits of shield laws*, (Jan. 13, 2026), available at <https://apnews.com/article/louisiana-california-abortion-pill-extradite-doctor-f99a0f638daa6996bf2affd9194b2809>.

The bill is sponsored by Attorney General Rob Bonta and supported by the California Chapter of the American College of Emergency Physicians, the Electronic Frontier Foundation, the Los Angeles LGBT Center, and Planned Parenthood Affiliates of California. The bill is opposed by the California Bankers Association, the California Chamber of Commerce, the California Family Council, and Democrats for an Informed Approach to Gender. The bill passed out of the Senate Public Safety Committee on a vote of 5 to 1.

PROPOSED CHANGES TO THE LAW

Existing federal law:

- 1) Provides that each state shall give full faith and credit to the public acts, records, and judicial proceedings of every other state, and that Congress may prescribe the manner in which such acts, records, and proceedings shall be proved and the effect thereof. (U.S. Const., art. IV, § 1.)
- 2) Provides that persons in the United States may travel freely throughout the United States. (*E.g., U.S. v. Guest* (1966) 383 U.S. 745, 758 (“freedom to travel throughout the United States has long been recognized as a basic right under the Constitution”).)²
- 3) A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime. (U.S. Const., art. IV, sec. 2, cl. 2.)

Existing law:

- 1) Prohibits the state from denying or interfering with an individual’s reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives. Specifies that this provision is intended to further the constitutional right to privacy guaranteed by Section 1 of Article I of the California Constitution, and the constitutional right to not be denied equal protection guaranteed by Section 7 of Article I of the California Constitution, and that nothing herein narrows or limits the right to privacy or equal protection. (Cal. Const., art. I, § 1.1.)
- 2) Provides that all people are by nature free and independent and have inalienable rights including, among others, the right to privacy. (Cal. Const., art. I, § 1.)

² Although the right to travel is not expressly set forth in the Constitution, it has been recognized as emanating from both the Interstate Commerce Clause (*e.g., Edwards v. People of State of California* (1941) 314 U.S. 160, 174) and the Privileges and Immunities Clause (*e.g., Saenz v. Roe* (1999) 526 U.S. 501-502).

- 3) Provides that a person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws. (Cal. Const., art. I, § 7.)
- 4) Holds that the state constitution's express right to privacy extends to an individual's decision about whether or not to have an abortion. (*People v. Belous* (1969) 71 Cal.2d 954.)
- 5) Provides that all people have inalienable rights, including the right to pursue and obtain safety, happiness, and privacy. (Cal. Const., art. I, §1.)
- 6) Establishes the Reproductive Privacy Act and provides that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions and, therefore, it is the public policy of the State of California that:
 - a) every individual has the fundamental right to choose or refuse birth control;
 - b) every individual has the fundamental right to choose to bear a child or to choose to obtain an abortion, with specified limited exceptions; and
 - c) the state shall not deny or interfere with a person's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted (Health & Saf. Code §§ 123460 et. seq., § 123462.)
- 7) Provides that the state may not deny or interfere with a person's right to choose or obtain an abortion prior to viability of the fetus or when the abortion is necessary to protect the life or health of the person. (Health & Saf. Code § 123466.)
- 8) Defines "legally protected health care activity" as 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. (Civ. Code § 1798.300 (d).); Pen. Code, § 1549.15, subd. (b)(1)(A)-(C).)

- 9) 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 a legally protected health care activity, as defined, if the legally protected health care activity is lawful in California. (Pen. Code § 13778.2(a).)
- 10) States that a law of another state that authorizes the imposition of civil or criminal penalties related to an individual performing, supporting, or aiding in the performance of a legally protected health care activity in this state, or to an individual obtaining a legally protected health care activity in this state, if the legally protected health care activity is lawful under the laws of this state, is against the public policy of this state. (Pen. Code, § 13778.2(c)(2).)
- 11) States that the investigation of any criminal activity in this state that may involve the performance of a legally protected health care activity is not prohibited, provided that information relating to any medical procedure performed on a specific individual is not shared with an agency or individual from another state for the purpose of enforcing another state's law involving a legally protected health care activity. (Pen. Code, § 13778.2(d).)
- 12) Requires that 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:
 - a) is based in tort, contract, or on statute;
 - b) is actionable, in an equivalent or similar manner, under the laws of this state; and
 - c) was brought by the patient who received a legally protected health care activity or the patient's legal representative. (Pen. Code, § 13778.3(d).)
- 13) Authorizes the Governor to surrender, on demand of the executive authority of any other state, any person in this state charged in the other state in the manner provided in Section 1548.2 of the Penal Code with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand.
 - a) These provisions shall apply to those cases, even though the accused was not in the demanding state at the time of the commission of the crime, and has not fled therefrom

- b) Neither the demand, the oath, nor any proceedings need state or show that the accused has fled from justice from, or at the time of the commission of the crime was in, the demanding or other state. (Pen. Code § 1549.1)

This bill:

- 2) Prohibits a state or local law enforcement agency or officer from knowingly arresting or knowingly participating in the arrest of any person who the Governor has declined to surrender, on the demand of the executive authority of any other state, as provided.
- 3) Expands certain provisions of law in the Penal Code regarding imposing criminal or civil penalty on, any person performing, supporting, or aiding in the performance of a legally protected health care activity, in this state, or obtaining a legally protected health care activity, in this state, if the legally protected healthcare activity is lawful in this state to also apply if a patient is not located in California.
- 4) Requires that an out-of-state warrant, subpoena, or wiretap order based on a declaration stating various grounds for the discovery of information, as specified, be filed under penalty of perjury.
- 5) Prohibits a California corporation that provides financial services to the general public from complying 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.
 - a) Provides that a corporation subject to this provision is entitled to rely on the representations made in the affidavit or declaration.
 - b) Defines "financial services" to mean services provided by an entity that receives deposits, extends credit, conducts fund transfers, or transports cash or financial instruments.
- 6) Authorizes the Attorney General (AG) to commence an action to enforce the requirements of Penal Code Section 13778.3 including, but not limited to an application or motion for an order enjoining ongoing or future violations.
 - a) Provides that the AG shall not commence that action unless the AG has reason to believe the defendant or respondent intends to comply or has complied with, or intends to provide information in response to or has provided information in response to, an inquiry, investigation, subpoena, or summons regarding legally protected health care activity.

- b) Requires an action to be commenced within six years of the date on which the AG received the notice of the inquiry, investigation, subpoena, or summons at issue.
- 7) Requires the court to assess a statutory penalty of \$10,000 for the first violation and \$15,000 for the second and each subsequent violation against any person or entity found to have intentionally, knowingly, willingly, or recklessly complied with or provided information in response to an inquiry, investigation, subpoena, or summons regarding legally protected health care activity in violation of the above provisions.
- a) These penalties shall be in addition to any other legal or equitable remedy lawfully available.
 - b) Requires the AG to be awarded all attorney's fees and costs in any civil action in which a court imposes any of the penalties above.

COMMENTS

1. Stated need for the bill

The author writes:

AB 1854 continues California's commitment to defend reproductive health care freedoms by strengthening California's shield laws to better stop out-of-state anti-abortion prosecutions and extradition attempts at our border. At a time when anti-abortion states are targeting those who legally provide or receive reproductive health care in California, it's vital we fortify our protections.

Attorney General Rob Bonta, the sponsor of the bill, writes:

Since California's shield laws took effect, anti-abortion states have increased efforts to investigate and prosecute California providers, and some states have tried to extradite or take adverse legal actions against California doctors. For example, Louisiana has sought to extradite a California abortion provider for allegedly sending abortion medication to a Louisiana resident.[fn. omitted]

AB 1854 would address these issues by 1) clarifying reproductive shield laws, 2) prohibiting law enforcement from arresting someone if the Governor refuses an extradition request, and 3) ensuring that a California corporation providing financial services to the public, may not comply with an out-of-state legal demand related to legally protected health care activity unless the request includes the required affidavit or declaration.

These clarifications are essential to ensuring that California's protections remain effective in practice and continue to provide certainty to patients, providers, and

support networks. They also help safeguard sensitive personal information from being used in out-of-state proceedings that seek to penalize lawful care. As the legal landscape continues to shift nationwide, AB 1854 ensures California will remain a safe haven for those seeking and providing reproductive health care.

2. This bill seeks to build upon existing California protections related to reproductive health care services and gender-affirming care

Over the past several years California has enacted several laws (shield laws) to protect against attempts by the federal government and other states to intimidate, harass, and punish individuals providing, receiving, or otherwise facilitating reproductive and gender-affirming health care services or abortion related services.

Prior to the *Dobbs v. Jackson Women's Health* decision by the U.S. Supreme Court in 2022, an implied federal constitutional right to privacy existed regarding a person's decision whether to terminate a pregnancy, while allowing that some state regulation of abortion access could be permissible.³ The ruling in *Dobbs* eliminated this right, thus federal protections for abortion care, and opened the flood gates for states to enact various abortion bans and other statutes seeking to provide for both criminal and civil liability against a person who obtains, provides, or assists an abortion.⁴ As of June 2026, 13 states have a total ban on abortion.⁵ In response to the *Dobbs* decision, California enacted a comprehensive package of legislation expanding, protecting, and strengthening access to reproductive health care, including abortions, for all Californians and people seeking such care in our state.⁶ Additionally, the voters overwhelmingly approved Proposition 1 (Nov. 8, 2022 gen. elec.), and enacted an express constitutional right in the state constitution that prohibits the state from interfering with an individual's reproductive freedom in their most intimate decisions.

Other states are intensifying their laws in response to shield laws enacted in other states. As of June 2026, 21 states have introduced bills to criminalize the sale, purchase or distribution of medication abortion pills with four states successfully enacting such laws (Iowa, Mississippi, Oklahoma and South Dakota).⁷ Access to telehealth abortion care, can be a lifeline for people in states with total abortion bans and other restrictions on care and shield laws help to ensure providers and patients are protected. In 2025, Texas attempted to enforce its abortion ban in New York but was prevented from filing

³ *Dobbs v. Jackson Women's Health* (2022) 142 S. Ct. 2228, which overruled *Roe v. Wade* (1973) 410 U.S. 113.

⁴ See Tex. Health & Safety Code § 171.201 et seq. (enacted through Texas Senate Bill 8).

⁵ Guttmacher Institute, *State Bans on Abortion Throughout Pregnancy*, (as of June 4, 2026), available at <https://www.guttmacher.org/state-policy/explore/state-policies-abortion-bans>.

⁶ Kristen Hwang, *Newsom signs abortion protections into law*, CalMatters (Sept. 27, 2022), available at <https://calmatters.org/health/2022/09/california-abortion-bills/>.

⁷ Guttmacher Institute, *State Policy Trends Midyear Analysis: Five Key Issues to Watch in 2026*, available at <https://www.guttmacher.org/2026/06/state-policy-trends-midyear-analysis-five-key-issues-watch-2026>.

papers to collect a judgment against a New York doctor who provided safe, legal telehealth abortion care under New York's shield laws.⁸

Around the same time Dobbs was decided, conservative hysteria over transgender individuals reached new heights. According to Human Rights Watch, as of March 2022, legislatures nationwide had introduced over 300 anti-LGBTQ+ bills, over 130 of which specifically targeted transgender people.⁹ In 2022, SB 107 (Wiener, Ch. 810, Stats. 2022) was enacted in response to these anti-transgender statutes to act as shield law. Governor Newsom's signing message of SB 107 stated, "[i]n California we believe in equality and acceptance. We believe that no one should be prosecuted or persecuted for getting the care they need – including gender-affirming care."¹⁰

On January 20, 2025, a federal executive order was issued stating that the federal government would only recognize two biological sexes,¹¹ even though this is biologically incorrect.¹² Additionally, an order was issued banning transgender girls and women from participating in women's sports.¹³ Another executive order banned all federal funding for youth gender affirming care, including the removal of any funding from medical and educational institutions for research on gender affirming care,¹⁴ while another banned transgender individuals from serving in the U.S. Military.¹⁵ Some of these orders are currently being challenged in court; however, it is unclear what their ultimate fate will be. In response to these executive orders the Trump Administration has taken several actions, including: rescinding all existing federal policies protecting transgender people from sex and disability discrimination; revoking the ability to obtain passports and federal documents reflecting their gender identity; denying transition-related healthcare to federal employees; and ordering law enforcement to

⁸ N.Y. State Attorney General, *Attorney General James Defends New York's Shield Law Against Texas Attack*, (Spt. 8, 2025), available at <https://ag.ny.gov/press-release/2025/attorney-general-james-defends-new-yorks-shield-law-against-texas-attack>.

⁹ Human Rights Watch, Press Release, ICYMI: As Lawmakers Escalate Attacks on Transgender Youth Across the Country, Some GOP Leaders Stand Up for Transgender Youth (Mar. 24, 2022), <https://www.hrc.org/press-releases/icymi-as-lawmakers-escalate-attacks-on-transgender-youth-across-the-country-some-gop-leaders-stand-up-for-transgender-youth> (all links current as of August 29, 2022).

¹⁰ Governor's signing message on Sen. Bill No. 107 (Sep. 29, 2022), available at <https://www.gov.ca.gov/wp-content/uploads/2022/09/SB-107-SIGNING.pdf?emrc=1a80c5>.

¹¹ Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan. 20, 2025).

¹² Claire Ainsworth & Nature Magazine, *Scientific American, Sex Redefined: The Idea of 2 Sexes Is Overly Simplistic* (Oct. 22, 2018) available at <https://www.scientificamerican.com/article/sex-redefined-the-idea-of-2-sexes-is-overly-simplistic1/#:~:text=According%20to%20the%20simple%20scenario,or%20sexual%20anatomy%20say%20another.>

¹³ Exec. Order No. 14168, 90 Fed. Reg. 9279 (January 20, 2025).

¹⁴ Exec. Order No. 14187, 90 Fed. Reg. 8771 (Jan. 28, 2025).

¹⁵ Exec. Order No. 14004, 90 Fed. Reg. 8757 (Jan. 27, 2025).

prosecute school officials who recognize transgender students.¹⁶ These actions elucidate a general hostility towards the transgender community from the current federal administration.

In 2025, the federal Department of Justice announced that it had sent out over 20 subpoenas to doctors and clinics providing gender-affirming health care to minors.¹⁷ California's Attorney General, in conjunction with other states, has fought to prevent the federal government and out-of-state officials from obtaining these kinds of records.¹⁸ However, the ability of the Attorney General to successfully prevent disclosure is directly tied to the Attorney General having the authority to intervene in disputes regarding the provision of this information, and having notice of an inquiry in the first instance. Following efforts by the Trump administration to restrict access to gender-affirming care for minors, some California healthcare providers scaled back care for transgender youth. Children's Hospital of Los Angeles was the first to cease providing such care, followed by Stanford Medicine, Kaiser Permanente, Sutter Health (though they backtracked on their decision due to public pressure), and Rady.¹⁹

This bill seeks to strengthen California's laws by prohibiting a state or local law enforcement agency from knowingly causing the arrest of or arresting any person who the Governor has declined to surrender on the demand of the executive authority of any other state. This bill seeks to ensure that the Governor's Executive Order Number 12-22 can be fully enacted. The bill also expands existing protections under the Penal Code relating to prohibiting compliance with out-of-state subpoenas, warrants, wiretaps orders, pen register traps and trace orders or other legal processes relating to a legally protected health care activity, except as specified. This bill expands this provision to apply to financial services, as defined. The bill also makes various protections under the Penal Code related to legally protected healthcare activities apply regardless of the patient's location. For a detailed analysis of the bill's impact on extradition and other Penal Code provisions, please see the Senate Public Safety Committee Analysis of this bill.²⁰

¹⁶ Jennifer Levi, GLADD, *From the Front Lines: The Fight for Transgender Rights Is a Fight for Democracy*, (Feb. 10, 2025), available at <https://www.glad.org/the-fight-for-transgender-rights-is-a-fight-for-democracy/>.

¹⁷ U.S. Department of Justice, *Department of Justice Subpoenas Doctors and Clinics Involved in Performing Transgender Medical Procedures on Children*, (Jul. 9, 2025) available at: <https://www.justice.gov/opa/pr/departement-justice-subpoenas-doctors-and-clinics-involved-performing-transgender-medical>.

¹⁸ See California Department of Justice, *Attorney General Bonta Joins Multistate Opposition to U.S. DOJ's Attempt to Subpoena Gender-Affirming Care Records*, (Oct. 22, 2025) available at: <https://oag.ca.gov/news/press-releases/attorney-general-bonta-joins-multistate-opposition-us-doj%E2%80%99s-attempt-subpoena>.

¹⁹ Kristen Hwang, CalMatters, *Parents of trans kids ask: Does California really protect our rights?*, (Feb. 4, 2026), available at <https://calmatters.org/health/2026/02/rady-transgender-health-bonta-lawsuit/>.

²⁰ Sen. Pub. Saf. analysis AB 1854 (2025-26 reg. sess.) as amended May 18, 2026.

The provisions of this bill in this Committee's jurisdiction relate to establishing civil penalties for violation of the provisions related to not complying with an out-of-state subpoena, warrant, wiretap order, pen register trap and trace order, or other legal process related to legally protected healthcare activities. Under the bill, the AG can bring an action to enforce these provisions in the courts to award civil penalties in the amount of \$10,000 for the first violation and \$15,000 for the second and each subsequent violation against any person or entity found to have intentionally, knowingly, willingly, or recklessly complied with or provided information in response to an inquiry, investigation, subpoena, or summons regarding legally protected health care activity in violation of these prohibitions. Any action brought by the AG must be commenced within six years of the date on which the AG received the notice of the inquiry, investigation, subpoena, or summons at issue.

3. Constitutional issues

a. *Full Faith and Credit Clause*

Article IV, Section 1 of the U. S. Constitution, known as the Full Faith and Credit Clause, requires every state to give full faith and credit to the public acts (statutes), records, and judicial proceedings of every other state. As the bill requires certain laws and judgments of other states to not be enforced in California, it potentially implicates the Full Faith and Credit Clause. Current legal scholarship regarding the Full Faith and Credit Clause posits that the clause applies differently to public acts (statutes), records, and judicial proceedings.²¹ The current jurisprudence seems to provide that determinative judicial proceedings should be enforced in another jurisdiction as evidenced by the Court in *Baker v. General Motors Corp.* stating "for claim and issue preclusion purposes...the judgement of the rendering state gains nationwide force." ((1998) 522 U.S. 222, 233; see also *Mills v. Duryee* (1813) 11 U.S. 481, 484-485 holding that the judgment of a court of one of the states was conclusive evidence in every court within the United States.) Public acts or statutes and state records; however, may not need to be as strictly enforced. (see *Alaska Packers Association v. Industrial Accident Comm.* (1935) 294 U.S. 532; *Adar v. Smith* (5th Cir. 2011) 639 F.3d 146.) The U.S. Supreme Court provides some guidance:

Our precedent differentiates the credit owed to laws (legislative measures and common law) and to judgments. "In numerous cases this Court has held that credit must be given to the judgment of another state although the forum would not be required to entertain the suit on which the judgment was founded." The Full Faith and Credit Clause does not compel "a state to substitute the statutes of other states for its own statutes dealing with a subject matter concerning which it is competent to legislate." Regarding judgments, however, the full faith and

²¹ Redpath, *Between Judgment and Law: Full Faith and Credit, Public Policy, and State Records* (2013) 62 Emory L.J. 639.

credit obligation is exacting. A final judgment in one State, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land. For claim and issue preclusion (*res judicata*) purposes, in other words, the judgment of the rendering State gains nationwide force.²²

The Court upheld the application of California law to settle a dispute of conflicting workers compensation statutes, holding that “[a] rigid and literal enforcement of the Full Faith and Credit Clause, without regard to the statute of the forum, would lead to the absurd result that wherever a conflict arises, the statute of each state must be enforced in the courts of the other, but cannot be in its own.” (*Alaska Packers Association supra.* at 547.) The Court further stated: “Prima facie every state is entitled to enforce in its own courts its own statutes, lawfully enacted. One who challenges that right, because of the force given to a conflicting statute of another state by the full faith and credit clause, assumes the burden of showing, upon some rational basis, that of the conflicting interests involved those of the foreign state are superior to those of the forum.” (*Id.* at 547-48.) A few years later, the Court noted that “the Full Faith and Credit Clause is not an inexorable and unqualified command. It leaves some scope for state control within its borders...” (*Pink v. AAA Highway Express, Inc.* (1941) 314 U.S. 201,210.) These cases seem to indicate that states can uphold their public policy and apply their laws when a conflict of laws arises in a forum in that state and not run afoul of the Full Faith and Credit Clause.

The Court has generally held, dating back to 1813, that states must recognize and enforce the judicial determinations of another state. (*Mills v. Duryee* (1813) 7 Cranch 481, 484-485.) However, the Court has intimated that there may be exceptions to this general rule, stating that states are not automatically required to enforce civil judgments of another state that are based on that state’s civil statutes when the goal or purpose of the civil statute is punishing a person for an offence against the “public justice.” (*Huntington v Attrill* (1892) 146 U.S. 657, 673-674.) The *Huntington* court explained that whether or not a law [was] considered penal, and thus could not be enforced in the court of another jurisdiction, “depends on the question whether its purpose is to punish an offense against the public justice of the state, or to afford a private remedy to a person injured by the wrongful act.” (*Huntington v. Attrill, supra*, 146 U.S. 657, 673-674.) Although the *Huntington* court held that the New York statute in question was not penal, as it related to compensating a victim of a fraud, the Supreme Court has continued to examine Full Faith and Credit Clause claims using the penal exception standard. (See *Milwaukee County v. M. E. White Company* (1935) 296 U.S. 268.)²³ The Supreme Court also continues to apply the *Huntington* analysis of whether a statute is

²² *Baker v. GMC* (1998) 522 U.S. 222, 232-33 (internal citations omitted).

²³ Asm. Judiciary Comm. Analysis of Asm. Bill 1666 (2021-2022 Reg. Sess.) as amended March 24, 2022, pp. 8-9.

penal in nature to this day. (See *Kokesh v. Securities & Exchange Commission* (2017) 137 S. Ct. 1635, 1642.)

b. Extraterritorial Jurisdiction

The U.S. Supreme Court has held “a state does not acquire power or supervision over the internal affairs of another State merely because the welfare and health of its own citizens may be affected when they travel to that State.” (*Bigelow v. Virginia* (1975) 421 U.S. 809, 824.) In *Bigelow*, a Virginia newspaper editor was convicted in Virginia for printing an advertisement for an abortion referral service in New York. The Supreme Court overturned the conviction. However, other cases do not follow a strict prohibition on the application of one state’s laws on another state, as the Supreme Court has also held that even when criminal conduct takes place outside of the state, extraterritorial jurisdiction may be proper when the conduct was intended to produce or did produce harmful effects within the state. (*Strassheim v. Daily* (1911) 221 U.S. 280.)

4. Stakeholder statements

The Electronic Frontier Foundation writes in support stating:

Without additional safeguards, subpoenas, investigations, and other legal demands may be used to circumvent California law and undermine the rights of patients and their providers. In fact, since California’s shield laws took effect, anti-abortion states have increased efforts to extradite, investigate, and prosecute California providers. For example, Louisiana has sought to extradite a California abortion provider for allegedly sending abortion medication to a Louisiana resident.

A.B. 1854 addresses these mounting threats by strengthening California's existing shield law framework in four essential ways: expanding coverage to more California businesses and individuals who receive legal demands; creating a notification process so the Attorney General can intervene to stop improper disclosures; giving the Attorney General stronger authority to take legal action and enforce the law; and clarifying that law enforcement cannot arrest someone if the Governor refuses an extradition request. These protections are a necessary response to the real and escalating tactics being used to criminalize lawful reproductive health care.

Democrats for an Informed Approach to Gender (DIAG) write in opposition stating:

DIAG represents liberal voters in 48 states; the largest percentage of our supporters are California residents. DIAG promotes free speech and civil discourse, while advocating for the protection of women's rights, the well-being of young people, and the integrity of medical ethics. We and our supporters expect evidence-based policymaking from our Democratic lawmakers.

AB 1854 is likely unconstitutional and impermissibly imposes mandates on other states. These mandates are intended to shield "gender-affirming care" providers from any legal accountability, in any jurisdiction. AB 1854 does not protect patients. It protects providers and undermines the evidentiary foundation that patients and their families need to pursue their constitutional rights.

The California Chamber of Commerce writes in opposition stating:

Our concern with the bill relates to [...] the obligation for financial services that operate in California to refuse to honor subpoenas if they do not include a new affidavit.

Simply put - most recent amendments appear to broaden the scope of the bill to now cover the conduct of a multi-state company which is occurring in, and governed by, another state's laws. We are concerned that this puts businesses in an impossible scenario where complying with a subpoena that is proper under another state's laws (say, Texas) will be in violation of California's laws, and subject to a suit by the CA AG to compel them not to comply with a proper subpoena in Texas. This places the business in an impossible position - and though we understand the political and health concerns that the bill seeks to protect, we are concerned that our members will face sanctions in one state or the other when they are forced into this position. [...]

SUPPORT

Attorney General Rob Bonta
California Chapter of the American College of Emergency Physicians
Electronic Frontier Foundation
Planned Parenthood Affiliates of California

OPPOSITION

California Chamber of Commerce
California Family Council
Democrats for an Informed Approach to Gender

RELATED LEGISLATION

Pending Legislation:

AB 1930 (Zbur, 2026) seeks to bolster existing protections against the enforcement of laws of other jurisdictions that aim to punish individuals who obtain or seek to obtain abortion or gender-affirming care that is legal in California by requiring that notice be provided to the Attorney General within seven days of receiving, being served with, or

being subject to a civil, criminal, or regulatory investigation, subpoena, or summons for information regarding abortion or gender-affirming health care services that are legal in California, as specified. AB 1930 is pending in the Senate Public Safety Committee.

AB 2164 (Bauer-Kahan, 2026) prohibits, except when required by federal law, the Governor from recognizing any demand for extradition of any person who receives, assists, or materially supports, as specified, any legally protected health care activity, unless the executive authority of the demanding state alleges that the accused was physically present in the demanding state at the time of the commission of the alleged crime; and extends existing California protections to any person who has previously undertaken any act in another state to aid or encourage another in the exercise of their rights to reproductive health care services or gender-affirming health care services. AB 2164 is pending in this Committee on the same day as this bill.

Prior Legislation:

SB 497 (Wiener, Ch. 764, Stats. 2025) enacted various safeguards against the enforcement of other states' laws that purport to penalize individuals from obtaining gender-affirming care that is legal in California.

SB 345 (Skinner, Ch. 260, Stats. 2023) enacted various safeguards against the enforcement of other states' laws that prohibit, criminalize, sanction, authorize civil liability against, or otherwise interfere with a person, provider, or other entity in California that offers reproductive health care services or gender-affirming health care services.

AB 1666 (Bauer-Kahan, Ch. 42, Stats. 2022) declared that a law of another state that authorizes a person to bring a civil action against a person or entity that receives or seeks, performs or induces, or aids or abets the performance of an abortion, or who attempts or intends to engage in those actions, is contrary to the public policy of this state and prohibited this state from applying that law to a case or controversy heard in state court and the enforcement or satisfaction of a civil judgment received under that law.

AB 2091 (Mia Bonta, Ch. 628, Stats. 2022), among other things, prohibited compelling a person to identify or provide information that would identify an individual who has sought or obtained an abortion in a state, county, city, or other local criminal, administrative, legislative, or other proceeding if the information is being requested based on another state's laws that interfere with a person's right to choose or obtain an abortion or a foreign penal civil action.

AB 2223 (Wicks, Ch. 629, Stats. 2022), among other things, authorized a party aggrieved by a violation of the Reproductive Privacy Act to bring a civil action against an offending state actor, as specified, and provided that every individual possesses a

fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.

PRIOR VOTES

Senate Public Safety Committee (Ayes 5, Noes 1)

Assembly Floor (Ayes 60, Noes 17)

Assembly Appropriations Committee (Ayes 11, Noes 4)

Assembly Judiciary Committee (Ayes 9, Noes 3)

Assembly Public Safety Committee (Ayes 7, Noes 1)
