

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: SB 497 **VERSION:** AMENDED MARCH 28, 2025

AUTHOR: WIENER **SPONSOR:** NUMEROUS – SEE BELOW

STAFF RECOMMENDED POSITION: SUPPORT

SUBJECT: LEGALLY PROTECTED HEALTH CARE ACTIVITY

Overview: This bill seeks to protect the privacy and safety of individuals seeking gender affirming health care and mental health care in California, as well as the health care providers delivering these services, by strengthening protections in law related to the sharing of their health care information.

Existing Law:

- 1) Defines “gender affirming health care” as medically necessary health care that respects the gender identity of the patient, as experienced and defined by the patient. (Welfare and Institutions Code (WIC) §16010.2(b)(3)(A))
- 2) Defines “gender affirming mental health care” as mental or behavioral health care that respects the gender identity of the patient, as experienced and defined by the patient. It may include, but is not limited to, developmentally appropriate exploration and integration of identity, reduction of distress, adaptive coping, and strategies to increase family acceptance. (WIC §16010.2(b)(3)(B))
- 3) Prohibits a health care provider, health care service plan, or contractor from disclosing medical information regarding a patient without first obtaining authorization, except under certain specified circumstances. (Civil Code (CIV) §56.10)
- 4) Prohibits a health care provider, health care service plan, or contractor 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 any civil action, based on another state’s law authorizing a civil action to be brought against a person or entity allowing a child to receive gender affirming health care or gender affirming mental health care. (CIV §56.109(a))
- 5) Prohibits a health care provider, health care service plan, or contractor from releasing medical information to persons or entities who have requested it and who are otherwise authorized by law to receive it, if the information is related to a person or entity allowing a child to receive gender affirming health care or gender

affirming mental health care, if that information is being requested pursuant to another state's law that authorizes a person to bring civil action against a person or entity for allowing a child to receive this care. (CIV §56.109(b))

- 6) Sets the process for requesting the issuance of a subpoena in California based on a "foreign" (i.e. from out-of-state) subpoena. Prohibits issuance of a subpoena if the foreign subpoena is based on a violation of laws in another state that interfere with a person's right to allow a child to receive gender affirming health care or gender affirming mental health care. (Code of Civil Procedure (CCP) §2029.300(e)(1))
- 7) Sets forth the conditions that must be satisfied for a California licensed attorney to issue a subpoena based on a foreign subpoena. Prohibits the attorney from issuing the subpoena 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. (CCP §2029.350(b))
- 8) Establishes the Controlled Substance Utilization Review and Evaluation System (CURES) electronic database, administered by the Department of Justice (DOJ), to assist health providers and law enforcement in ensuring appropriate distribution of controlled substances. The database must comply with all applicable federal and state privacy and security laws. (Health and Safety Code (HSC) §11165)
- 9) Permits the department of administering the CURES database (the DOJ) to enter into an agreement with another prescription drug monitoring program in another state for purposes of interstate data sharing. (HSC §11165(h))
- 10) Specifies the process for issuing a subpoena in criminal cases. However, it specifies that a provider of health care, a health care service plan, or contractor is prohibited 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 foreign subpoena that is based on a violation of another state's laws authorizing a criminal action or against a person or entity allowing a child to receive such care. (Penal Code (PC) §1326(c))

This Bill:

- 1) Prohibits a health care provider, health care service plan, or contractor from releasing medical information related to a person seeking or obtaining gender affirming health care or gender affirming mental health care, or a person or entity allowing a child to receive gender affirming health care or gender affirming mental health care in response to any subpoena or request, based on another state's law that interferes with an individual's right to seek or obtain such care or authorizes a civil or criminal action to be brought against a person or entity allowing a child to receive gender affirming health care or gender affirming mental health care. (CIV §56.109(a))

- 2) Prohibits a health care provider, health care service plan, or contractor from releasing medical information to persons or entities who have requested it and who are otherwise authorized by law to receive it, if the information is related to an individual seeking or obtaining gender-affirming health care or gender affirming mental health care, or to a person or entity allowing a child to receive gender affirming health care or gender affirming mental health care, if that information is being requested pursuant to another state's law that authorizes a person to bring civil or criminal action against a person or entity that provides, seeks, obtains, or receives such care, or who allows a child to receive this care. (CIV §56.109(b))
- 3) Prohibits a health care provider, health care service plan, or contractor from cooperating with an inquiry or investigation or providing medical information to another state entity or federal law enforcement agency (to the extent permitted by federal law) that would identify an individual and that is related to an individual seeking or obtaining gender affirming health care or gender affirming mental health care that is lawful in California. (CIV §56.109(c))
- 4) Does not prohibit compliance with the investigation of activity that is punishable as a crime in California. (CIV §56.109(d))
- 5) Prohibits the issuance of a subpoena if the foreign subpoena is based on a violation of laws in another state that interfere with a person's right to allow seek or obtain gender affirming health care or gender affirming mental health care, or to allow a child to receive gender affirming health care or gender affirming mental health care. (Code of Civil Procedure (CCP) §2029.300(e)(1))
- 6) Prohibits a California licensed attorney from issuing a subpoena if the foreign subpoena is based on a violation of another state's laws that interfere with a person's right to seek or obtain gender affirming health care or gender affirming mental health care or to allow a child to receive gender affirming health care or gender affirming mental health care. (CCP §2029.350(b))
- 7) Prohibits a public agency or anyone acting on behalf of a public agency from providing CURES data or expending resources to further any interstate investigation or proceeding to impose civil, criminal, or disciplinary liability for the provision or receipt of legally protected health care activity. Specifies that investigation of any activity punishable as a crime under California law is not prohibited, if no CURES data related to any legally protected health care activity is shared with any individual or entity from another state. (HSC §11165(c)(2)(C))
- 8) Prohibits an out-of-state authorized CURES user who obtains CURES data through its data sharing hub from providing that data in furtherance of any investigation or proceeding seeking to impose civil, criminal, or disciplinary liability for the provision or receipt of legally protected health care activity. (HSC §11165(h))

- 9) Makes it a misdemeanor to access the CURES database if not authorized to do so by law, or to knowingly furnish information from the CURES database to someone not authorized by law to receive it. (HSC §11165(k))
- 10) Specifies that a provider of health care, a health care service plan, or contractor is prohibited from releasing medical information related to (PC §1326(c)):
 - An individual seeking or obtaining gender affirming health care or gender affirming mental health care;
 - A person or entity allowing a child to receive gender affirming health care or gender affirming mental health care in response to a foreign subpoena that is based on a violation of another state's laws authorizing a criminal action that interferes with an individual's rights to seek or obtain this care; or
 - Against a person or entity allowing a child to receive such care.
- 11) Prohibits a provider of health care, a health service plan, or contractor from releasing medical information related to sensitive services in response to a foreign subpoena based on a violation of another state's laws authorizing a criminal action against a person or entity for the provision or receipt of legally protected health care activity. (PC §1326(d))

Comments:

- 1) **Author's Intent.** In the fact sheet for the bill, the author's office states the following:

"SB 497 protects the privacy and safety of individuals seeking gender affirming health care in California by:

- *Protecting sensitive data from being disclosed to out-of-state law enforcement to prosecute people receiving care that is legal in California;*
- *Establishing criminal penalties for accessing sensitive health data without a warrant;*
- *Expanding the protections for transgender people in SB 107 (Wiener, Chapter 810, Statutes of 2022) by strengthening California's Confidentiality of Medical Information Act to protect privacy of patients seeking gender affirming care;*
- *Stating the intent to protect teachers affirming of transgender youth.*

The bill reaffirms California's commitment to protecting the transgender community and reestablishes California as a national leader on LGBTQ rights while the community faces an historic assault."

2) **Previous Legislation.** SB 107 (Wiener, Chapter 810, Statutes of 2022) provided numerous safeguards against other states' laws for individuals seeking gender affirming care in California. These safeguards included prohibiting the state from cooperating with out-of-state subpoenas or legal action aimed at preventing access to this care, and barring law enforcement from assisting in investigating or prosecuting those who provide gender affirming care.

3) **Staff Recommended Position.** Staff recommends a "support" position on this bill.

4) **Support and Opposition**

Support

- Trans Family Support Services (Sponsor)
- TransYouth Liberation (Sponsor)
- Planned Parenthood (Sponsor)
- Equality California (Sponsor)

Oppose

- None at this time

5) **History**

03/28/25 From committee with author's amendments. Read second time and amended. Re-referred to Com. on JUD.

03/20/25 Set for hearing April 8.

02/26/25 Referred to Coms. on JUD. and PUB. S.

02/20/25 From printer. May be acted upon on or after March 22.

02/19/25 Introduced. Read first time. To Com. on RLS. for assignment. To print.

Blank Page

AMENDED IN SENATE MARCH 28, 2025

SENATE BILL

No. 497

Introduced by Senator Wiener

**(Coauthors: Senators Arreguín, Cabaldon, Cervantes, Gonzalez,
Laird, and Padilla)**

(Coauthors: Assembly Members Haney, Lee, Stefani, and Ward)

February 19, 2025

An act to amend Section 56.109 of the Civil Code, to amend Sections 2029.300 and 2029.350 of the Code of Civil Procedure, to amend Section 11165 of the Health and Safety Code, and to amend Section 1326 of the Penal Code, relating to health care.

legislative counsel's digest

SB 497, as amended, Wiener. Legally protected health care activity. The United States Constitution generally requires a state to give full faith and credit to the public acts, records, and judicial proceedings of every other state. Existing law generally authorizes a California court or attorney to issue a subpoena if a foreign subpoena has been sought in this state, but prohibits the issuance of a subpoena based on another state's law that interferes with a person's right to allow a child to receive gender-affirming health care or gender-affirming mental health care. Existing law generally prohibits a provider of health care, a health care service plan, or a contractor from disclosing medical information regarding a patient, enrollee, or subscriber without first obtaining an authorization, unless an exception applies, including that the disclosure is in response to a subpoena. Existing law prohibits a provider of health care, a health care service plan, or a contractor 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 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.

This bill would additionally prohibit a provider of health care, a health care service plan, or a contractor from releasing medical information related to a person seeking or obtaining 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 interferes with an individual's right to seek or obtain gender-affirming health care or gender-affirming mental health care. The bill would also prohibit a provider of health care, health care service plan, contractor, or employer from cooperating with or providing medical information to an individual, agency, or department from another state or, to the extent permitted by federal law, to a federal law enforcement agency that would identify an individual and that is related to an individual seeking or obtaining gender-affirming health care, as specified. The bill would prohibit these entities from releasing medical information related to sensitive services, as defined, in response to a foreign subpoena that is based on a violation of another state's laws authorizing a criminal action against a person or entity for provision or receipt of legally protected health care activity, as defined. The bill would also generally prohibit the issuance of a subpoena based on a violation of another state's law that interferes with a person's right to seek or obtain gender-affirming health care or gender-affirming mental health care, as specified.

Existing law requires the Department of Justice to maintain the Controlled Substances Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of certain controlled substances by a health care practitioner authorized to prescribe, order, administer, furnish, or dispense those controlled substances. Existing law authorizes the department to enter into an agreement with an entity operating an interstate data sharing hub, or an agency operating a prescription drug monitoring program in another state, for purposes of interstate data sharing of prescription drug monitoring program information. Existing law limits the entities to which data may be provided from CURES, as well as the type of data that may be released and the uses to which it may be put.

This bill would prohibit a state or local agency or employee, appointee, officer, contractor, or official or any other person acting on behalf of a

public agency from providing any CURES data or expend any resources in furtherance of any interstate investigation or proceeding seeking to impose civil, criminal, or disciplinary liability upon the provision or receipt of legally protected health care activity, as defined. The bill would prohibit out-of-state law enforcement from having access to CURES data through the interstate data sharing hub and would ~~require a warrant, subpoena, or court order for a law enforcement agency to obtain information from CURES as part of a criminal investigation.~~ *prohibit the department from sharing data with an out-of-state law enforcement agency without a warrant, subpoena, or court order, and would prohibit an out-of-state user from providing any data in furtherance of an investigation or proceeding to impose liability for the provision or receipt of legally protected health care activity.*

This bill would make it a misdemeanor for a person to access the CURES database when not authorized by law, and would make it a misdemeanor for a person who is authorized to access the database to knowingly furnish information from the CURES database to a person who is not authorized by law to receive that information. By creating new crimes, the bill would impose a state-mandated local program.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature find and declares that
- 2 California residents and visitors, especially transgender and gender
- 3 nonconforming people, are being targeted for harassment,
- 4 intimidation, and other harm, as are family members, teachers,
- 5 and others who support them. The Legislature intends to
- 6 comprehensively protect these Californians and visitors from both
- 7 in-state and out-of-state abuse, including from individuals
- 8 purporting to act on behalf of the United States Government.
- 9 (b) It is the intent of the Legislature to ensure that educators
- 10 that may face retaliation or prosecution under President Trump’s
- 11 Executive Order on Ending Radical Indoctrination in K–12

1 Schooling for prioritizing the safety and well-being of transgender
2 youth are protected.

3 SEC. 2. Section 56.109 of the Civil Code is amended to read:

4 56.109. (a) Notwithstanding subdivision (b) of Section 56.10,
5 a provider of health care, health care service plan, or contractor
6 shall not release medical information related to a person seeking
7 or obtaining gender-affirming health care or gender-affirming
8 mental health care or a person or entity allowing a child to receive
9 gender-affirming health care or gender-affirming mental health
10 care in response to any *subpoena or* request, including a foreign
11 subpoena, based on another state's law that interferes with an
12 individual's right to seek or obtain gender-affirming health care
13 or gender-affirming mental health care or authorizes a person to
14 bring a civil or criminal action against a person or entity that allows
15 a child to receive gender-affirming health care or gender-affirming
16 mental health care.

17 (b) Notwithstanding subdivision (c) of Section 56.10, a provider
18 of health care, health care service plan, or contractor shall not
19 release medical information to persons or entities who have
20 requested that information and who are authorized by law to receive
21 that information pursuant to subdivision (c) of Section 56.10, if
22 the information is related to an individual seeking or obtaining
23 gender-affirming health care or gender-affirming mental health
24 care or to a person or entity allowing a child to receive
25 gender-affirming health care or gender-affirming mental health
26 care, and the information is being requested pursuant to another
27 state's law that authorizes a person to bring a civil or criminal
28 action against a person or entity that provides, seeks, obtains, or
29 receives gender-affirming health care or gender-affirming mental
30 health care or who allows a child to receive gender-affirming health
31 care or gender-affirming mental health care.

32 (c) Notwithstanding subdivisions (b) and (c) of Section 56.10
33 or subdivision (c) of Section 56.20, a provider of health care, health
34 care service plan, contractor, or employer shall not cooperate with
35 any inquiry or investigation by, or provide medical information
36 to, any individual, agency, or department from another state or, to
37 the extent permitted by federal law, to a federal law enforcement
38 agency that would identify an individual and that is related to an
39 individual seeking or obtaining gender-affirming health care or

1 gender-affirming mental health care that is lawful under the laws
2 of this state.

3 ~~(d) This section does not prohibit compliance with the~~
4 ~~investigation of an activity that is punishable as a crime under the~~
5 ~~laws of this state as long as no medical information related to~~
6 ~~gender-affirming health care and gender-affirming mental health~~
7 ~~care is shared with an out-of-state agency or any other individual.~~

8 *(d) This section does not prohibit compliance with the*
9 *investigation of activity that is punishable as a crime under the*
10 *laws of this state.*

11 (e) For the purposes of this section, the following terms have
12 the following meanings:

13 (1) “Gender-affirming health care” and “gender-affirming mental
14 health care” shall have the same meaning as provided in Section
15 16010.2 of the Welfare and Institutions Code.

16 (2) “Person” means an individual or governmental subdivision,
17 agency, or instrumentality.

18 SEC. 3. Section 2029.300 of the Code of Civil Procedure is
19 amended to read:

20 2029.300. (a) To request issuance of a subpoena under this
21 section, a party shall submit the original or a true and correct copy
22 of a foreign subpoena to the clerk of the superior court in the
23 county in which discovery is sought to be conducted in this state.
24 A request for the issuance of a subpoena under this section does
25 not constitute making an appearance in the courts of this state.

26 (b) In addition to submitting a foreign subpoena under
27 subdivision (a), a party seeking discovery shall do both of the
28 following:

29 (1) Submit an application requesting that the superior court issue
30 a subpoena with the same terms as the foreign subpoena. The
31 application shall be on a form prescribed by the Judicial Council
32 pursuant to Section 2029.390. No civil case cover sheet is required.

33 (2) Pay the fee specified in Section 70626 of the Government
34 Code.

35 (c) When a party submits a foreign subpoena to the clerk of the
36 superior court in accordance with subdivision (a), and satisfies the
37 requirements of subdivision (b), the clerk shall promptly issue a
38 subpoena for service upon the person to which the foreign subpoena
39 is directed.

1 (d) A subpoena issued under this section shall satisfy all of the
2 following conditions:

- 3 (1) It shall incorporate the terms used in the foreign subpoena.
- 4 (2) It shall contain or be accompanied by the names, addresses,
5 and telephone numbers of all counsel of record in the proceeding
6 to which the subpoena relates and of any party not represented by
7 counsel.
- 8 (3) It shall bear the caption and case number of the out-of-state
9 case to which it relates.
- 10 (4) It shall state the name of the court that issues it.
- 11 (5) It shall be on a form prescribed by the Judicial Council
12 pursuant to Section 2029.390.

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

- 16 (1) If the foreign subpoena is based on a violation of another
17 state’s laws that interfere with a person’s right to seek or obtain
18 gender-affirming health care or gender-affirming mental health
19 care or to allow a child to receive gender-affirming health care or
20 gender-affirming mental health care. For the purpose of this
21 paragraph, “gender-affirming health care” and “gender-affirming
22 mental health care” shall have the same meaning as provided in
23 Section 16010.2 of the Welfare and Institutions Code.
- 24 (2) If the submitted foreign subpoena relates to a foreign penal
25 civil action and would require disclosure of information related to
26 sensitive services. For purposes of this paragraph, “sensitive
27 services” has the same meaning as defined in Section 791.02 of
28 the Insurance Code.

29 SEC. 4. Section 2029.350 of the Code of Civil Procedure is
30 amended to read:

31 2029.350. (a) Notwithstanding Sections 1986 and 2029.300,
32 if a party to a proceeding pending in a foreign jurisdiction retains
33 an attorney licensed to practice in this state, who is an active
34 member of the State Bar, and that attorney receives the original
35 or a true and correct copy of a foreign subpoena, the attorney may
36 issue a subpoena under this article.

37 (b) (1) Notwithstanding subdivision (a), an authorized attorney
38 shall not issue a subpoena pursuant to subdivision (a) if the foreign
39 subpoena is based on a violation of another state’s laws that
40 interfere with a person’s right to seek or obtain gender-affirming

1 health care or gender-affirming mental health care or to allow a
2 child to receive gender-affirming health care or gender-affirming
3 mental health care.

4 (2) For the purpose of this subdivision, “gender-affirming health
5 care” and “gender-affirming mental health care” shall have the
6 same meaning as provided in Section 16010.2 of the Welfare and
7 Institutions Code.

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

14 (d) A subpoena issued under this section shall satisfy all of the
15 following conditions:

16 (1) It shall incorporate the terms used in the foreign subpoena.

17 (2) It shall contain or be accompanied by the names, addresses,
18 and telephone numbers of all counsel of record in the proceeding
19 to which the subpoena relates and of any party not represented by
20 counsel.

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

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

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

27 SEC. 5. Section 11165 of the Health and Safety Code is
28 amended to read:

29 11165. (a) To assist health care practitioners in their efforts
30 to ensure appropriate prescribing, ordering, administering,
31 furnishing, and dispensing of controlled substances, law
32 enforcement and regulatory agencies in their efforts to control the
33 diversion and resultant abuse of Schedule II, Schedule III, Schedule
34 IV, and Schedule V controlled substances, and for statistical
35 analysis, education, and research, the Department of Justice shall,
36 contingent upon the availability of adequate funds in the CURES
37 Fund, maintain the Controlled Substance Utilization Review and
38 Evaluation System (CURES) for the electronic monitoring of, and
39 internet access to information regarding, the prescribing and
40 dispensing of Schedule II, Schedule III, Schedule IV, and Schedule

1 V controlled substances by all practitioners authorized to prescribe,
2 order, administer, furnish, or dispense these controlled substances.

3 (b) The department may seek and use grant funds to pay the
4 costs incurred by the operation and maintenance of CURES. The
5 department shall annually report to the Legislature and make
6 available to the public the amount and source of funds it receives
7 for support of CURES.

8 (c) (1) The operation of CURES shall comply with all
9 applicable federal and state privacy and security laws and
10 regulations.

11 (2) (A) CURES shall operate under existing provisions of law
12 to safeguard the privacy and confidentiality of patients. Data
13 obtained from CURES shall only be provided to appropriate state,
14 local, and federal public agencies for disciplinary, civil, or criminal
15 purposes and to other agencies or entities, as determined by the
16 department, for the purpose of educating practitioners and others
17 in lieu of disciplinary, civil, or criminal actions. Data may be
18 provided to public or private entities, as approved by the
19 department, for educational, peer review, statistical, or research
20 purposes, if patient information, including information that may
21 identify the patient, is not compromised. The University of
22 California shall be provided access to identifiable data for research
23 purposes if the requirements of subdivision (t) of Section 1798.24
24 of the Civil Code are satisfied. Further, data disclosed to an
25 individual or agency as described in this subdivision shall not be
26 disclosed, sold, or transferred to a third party, unless authorized
27 by, or pursuant to, state and federal privacy and security laws and
28 regulations. The department shall establish policies, procedures,
29 and regulations regarding the use, access, evaluation, management,
30 implementation, operation, storage, disclosure, and security of the
31 information within CURES, consistent with this subdivision.

32 (B) Notwithstanding subparagraph (A), a regulatory board whose
33 licensees do not prescribe, order, administer, furnish, or dispense
34 controlled substances shall not be provided data obtained from
35 CURES.

36 (C) (i) Notwithstanding subparagraph (A) or any other law, a
37 state or local agency or employee, appointee, officer, contractor,
38 or official or any other person acting on behalf of a public agency
39 shall not provide any CURES data or expend or use time, money,
40 facilities, property, equipment, personnel, or other resources in

1 furtherance of any interstate investigation or proceeding seeking
2 to impose civil, criminal, or disciplinary liability upon the provision
3 or receipt of legally protected health care activity, as defined in
4 Section 1798.300 of the Civil Code.

5 (ii) This section does not prohibit the investigation of any
6 activity that is punishable as a crime under the laws of this state
7 so long as no CURES data related to any legally protected health
8 care activity, as defined in Section 1798.300 of the Civil Code, is
9 shared with any individual or entity from another state.

10 (3) The department ~~shall~~ *may* adopt regulations regarding the
11 access and use of the information within CURES. The department
12 shall consult with all stakeholders identified by the department
13 during the rulemaking process. The regulations shall, at a
14 minimum, address all of the following in a manner consistent with
15 this chapter:

16 (A) The process for approving, denying, and disapproving
17 individuals or entities seeking access to information in CURES.

18 (B) The purposes for which a health care practitioner may access
19 information in CURES.

20 (C) ~~Require a warrant, subpoena, or court order~~ *The conditions*
21 *under which a warrant, subpoena, or court order is required for*
22 *a law enforcement agency to obtain information from CURES as*
23 *part of a criminal investigation.*

24 (D) The process by which information in CURES may be
25 provided for educational, peer review, statistical, or research
26 purposes.

27 (4) In accordance with federal and state privacy laws and
28 regulations, a health care practitioner may provide a patient with
29 a copy of the patient's CURES patient activity report as long as
30 no additional CURES data are provided and the health care
31 practitioner keeps a copy of the report in the patient's medical
32 record in compliance with subdivision (d) of Section 11165.1.

33 (d) For each prescription for a Schedule II, Schedule III,
34 Schedule IV, or Schedule V controlled substance, as defined in
35 the controlled substances schedules in federal law and regulations,
36 specifically Sections 1308.12, 1308.13, 1308.14, and 1308.15,
37 respectively, of Title 21 of the Code of Federal Regulations, the
38 dispensing pharmacy, clinic, or other dispenser shall report the
39 following information to the department or contracted prescription
40 data processing vendor as soon as reasonably possible, but not

1 more than one working day after the date a controlled substance
2 is released to the patient or patient's representative, in a format
3 specified by the department:

4 (1) Full name, address, and, if available, telephone number of
5 the ultimate user or research subject, or contact information as
6 determined by the Secretary of the United States Department of
7 Health and Human Services, and the gender and date of birth of
8 the ultimate user.

9 (2) The prescriber's category of licensure, license number,
10 national provider identifier (NPI) number, if applicable, the federal
11 controlled substance registration number, and the state medical
12 license number of a prescriber using the federal controlled
13 substance registration number of a government-exempt facility.

14 (3) Pharmacy prescription number, license number, NPI number,
15 and federal controlled substance registration number.

16 (4) National Drug Code (NDC) number of the controlled
17 substance dispensed.

18 (5) Quantity of the controlled substance dispensed.

19 (6) The International Statistical Classification of Diseases (ICD)
20 Code contained in the most current ICD revision, or any revision
21 deemed sufficient by the State Board of Pharmacy, if available.

22 (7) Number of refills ordered.

23 (8) Whether the drug was dispensed as a refill of a prescription
24 or as a first-time request.

25 (9) Prescribing date of the prescription.

26 (10) Date of dispensing of the prescription.

27 (11) The serial number for the corresponding prescription form,
28 if applicable.

29 (e) The department may invite stakeholders to assist, advise,
30 and make recommendations on the establishment of rules and
31 regulations necessary to ensure the proper administration and
32 enforcement of the CURES database. A prescriber or dispenser
33 invitee shall be licensed by one of the boards or committees
34 identified in subdivision (d) of Section 208 of the Business and
35 Professions Code, in active practice in California, and a regular
36 user of CURES.

37 (f) The department shall, prior to upgrading CURES, consult
38 with prescribers licensed by one of the boards or committees
39 identified in subdivision (d) of Section 208 of the Business and
40 Professions Code, one or more of the boards or committees

1 identified in subdivision (d) of Section 208 of the Business and
2 Professions Code, and any other stakeholder identified by the
3 department, for the purpose of identifying desirable capabilities
4 and upgrades to the CURES Prescription Drug Monitoring Program
5 (PDMP).

6 (g) The department may establish a process to educate
7 authorized subscribers of the CURES PDMP on how to access and
8 use the CURES PDMP.

9 (h) (1) The department may enter into an agreement with an
10 entity operating an interstate data sharing hub, or an agency
11 operating a prescription drug monitoring program in another state,
12 for purposes of interstate data sharing of prescription drug
13 monitoring program information with out-of-state authorized users
14 so long as the entity operating an interstate data sharing hub, the
15 interstate data sharing hub itself, and any information. An
16 out-of-state authorized user who obtains CURES data through the
17 interstate data sharing hub shall not provide any CURES data in
18 furtherance of any investigation or proceeding seeking to impose
19 civil, criminal, or disciplinary liability upon the provision or receipt
20 of legally protected health care activity, as defined in Section
21 1798.300 of the Civil Code.

22 (2) Data obtained from CURES may be provided to authorized
23 users of another state's prescription drug monitoring program, as
24 determined by the department pursuant to subdivision (c), if the
25 entity operating the interstate data sharing hub, and the prescription
26 drug monitoring program of that state, as applicable, have entered
27 into an agreement with the department for interstate data sharing
28 of prescription drug monitoring program information.

29 (3) An agreement entered into by the department for purposes
30 of interstate data sharing of prescription drug monitoring program
31 information shall ensure that all access to data obtained from
32 CURES and the handling of data contained within CURES comply
33 with California law, including regulations, and meet the same
34 patient privacy, audit, and data security standards employed and
35 required for direct access to CURES.

36 (4) For purposes of interstate data sharing of CURES
37 information pursuant to this subdivision, an authorized user of
38 another state's prescription drug monitoring program shall not be
39 required to register with CURES, if the authorized user is registered

1 and in good standing with that state's prescription drug monitoring
2 program.

3 (5) The department shall not enter into an agreement pursuant
4 to this subdivision until the department has issued final regulations
5 regarding the access and use of the information within CURES as
6 required by paragraph (3) of subdivision (c).

7 ~~(6) Out of state law enforcement shall not have access to
8 CURES data through the interstate data sharing hub but may
9 request CURES data from the department.~~

10 (6) *Notwithstanding subdivision (c), the department shall not
11 provide CURES data to out-of-state law enforcement absent a
12 warrant, subpoena, or court order, issued pursuant to Section
13 2029.300 or 2029.350 of the Code of Civil Procedure, or Section
14 1326 of the Penal Code.*

15 (i) Notwithstanding subdivision (d), a veterinarian shall report
16 the information required by that subdivision to the department as
17 soon as reasonably possible, but not more than seven days after
18 the date a controlled substance is dispensed.

19 (j) If the dispensing pharmacy, clinic, or other dispenser
20 experiences a temporary technological or electrical failure, it shall,
21 without undue delay, seek to correct any cause of the temporary
22 technological or electrical failure that is reasonably within its
23 control. The deadline for transmitting prescription information to
24 the department or contracted prescription data processing vendor
25 pursuant to subdivision (d) shall be extended until the failure is
26 corrected. If the dispensing pharmacy, clinic, or other dispenser
27 experiences technological limitations that are not reasonably within
28 its control, or is impacted by a natural or manmade disaster, the
29 deadline for transmitting prescription information to the department
30 or contracted prescription data processing vendor shall be extended
31 until normal operations have resumed.

32 (k) (1) Any person who accesses the CURES database and who
33 is not authorized by law to do so is guilty of a misdemeanor.

34 (2) Any person authorized by law to access the CURES database
35 and who knowingly furnishes the information from the CURES
36 database to a person who is not authorized by law to receive that
37 information is guilty of a misdemeanor.

38 (3) This subdivision does not apply to a provider of health care
39 as defined in Section 56.06 of the Civil Code that is subject to
40 applicable state and federal medical privacy laws.

1 SEC. 6. Section 1326 of the Penal Code is amended to read:

2 1326. (a) The process by which the attendance of a witness
3 before a court or magistrate is required is a subpoena. It may be
4 signed and issued by any of the following:

5 (1) A magistrate before whom a complaint is laid or their clerk,
6 the district attorney or their investigator, or the public defender or
7 their investigator, for witnesses in the state.

8 (2) The district attorney, their investigator, or, upon request of
9 the grand jury, any judge of the superior court, for witnesses in
10 the state, in support of an indictment or information, to appear
11 before the court in which it is to be tried.

12 (3) The district attorney or their investigator, the public defender
13 or their investigator, or the clerk of the court in which a criminal
14 action is to be tried. The clerk shall, at any time, upon application
15 of the defendant, and without charge, issue as many blank
16 subpoenas, subscribed by them, for witnesses in the state, as the
17 defendant may require.

18 (4) The attorney of record for the defendant.

19 (b) A subpoena issued in a criminal action that commands the
20 custodian of records or other qualified witness of a business to
21 produce books, papers, documents, or records shall direct that
22 those items be delivered by the custodian or qualified witness in
23 the manner specified in subdivision (b) of Section 1560 of the
24 Evidence Code. Subdivision (e) of Section 1560 of the Evidence
25 Code shall not apply to criminal cases.

26 (c) (1) Notwithstanding subdivision (b), a provider of health
27 care, health care service plan, or contractor shall not release
28 medical information related to an individual seeking or obtaining
29 gender-affirming health care or gender-affirming mental health
30 care or a person or entity allowing a child to receive
31 gender-affirming health care or gender-affirming mental health
32 care in response to any foreign subpoena that is based on a violation
33 of another state's laws authorizing a criminal action that interferes
34 with an individual's rights to seek or obtain gender-affirming health
35 care or gender-affirming mental health care or against a person or
36 entity that allows a child to receive gender-affirming health care
37 or gender-affirming mental health care.

38 (2) For the purpose of this subdivision, "gender-affirming health
39 care" and "gender-affirming mental health care" shall have the

1 same meaning as provided in Section 16010.2 of the Welfare and
2 Institutions Code.

3 (d) Notwithstanding subdivision (b), a provider of health care,
4 health care service plan, or contractor shall not release medical
5 information related to sensitive services in response to any foreign
6 subpoena that is based on a violation of another state’s laws
7 authorizing a criminal action against a person or entity for the
8 provision or receipt of legally protected health care activity, as
9 defined in Section 1798.300 of the Civil Code. For purposes of
10 this subdivision, “sensitive services” has the same meaning as
11 defined in Section 791.02 of the Insurance Code.

12 (e) In a criminal action, no party, or attorney or representative
13 of a party, may issue a subpoena commanding the custodian of
14 records or other qualified witness of a business to provide books,
15 papers, documents, or records, or copies thereof, relating to a
16 person or entity other than the subpoenaed person or entity in any
17 manner other than that specified in subdivision (b) of Section 1560
18 of the Evidence Code. When a defendant has issued a subpoena
19 to a person or entity that is not a party for the production of books,
20 papers, documents, or records, or copies thereof, the court may
21 order an in camera hearing to determine whether or not the defense
22 is entitled to receive the documents. The court may not order the
23 documents disclosed to the prosecution except as required by
24 Section 1054.3.

25 (f) This section shall not be construed to prohibit obtaining
26 books, papers, documents, or records with the consent of the person
27 to whom the books, papers, documents, or records relate.

28 SEC. 7. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.

O