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# A BILL FOR AN ACT

RELATING TO HEALTH.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 329, Hawaii Revised Statutes, is  
2 amended by adding a new section to part III to be appropriately  
3 designated and to read as follows:

4           "§329-           Prescriptions; gender-affirming health care  
5 services. (a) Notwithstanding this chapter or any other law to  
6 the contrary, for the purposes of providing gender-affirming  
7 health care services, a practitioner who is licensed in this  
8 State may prescribe schedule III and IV controlled substances,  
9 including testosterone:

- 10           (1) While the practitioner is located outside the State;  
11           and  
12           (2) Without conducting an in-person consultation with the  
13           patient; provided that the practitioner shall  
14           prescribe the controlled substances via a synchronous  
15           audio-visual telehealth interaction.





1       (1) Medically necessary health care that respects the  
2       gender identity of the patient, as experienced and  
3       defined by the patient, and may include the following  
4       interventions to:

5       (A) Suppress the development of endogenous secondary  
6       sex characteristics;

7       (B) Align the patient's appearance or physical body  
8       with the patient's gender identity; or

9       (C) Alleviate symptoms of clinically significant  
10       distress resulting from gender dysphoria, as  
11       defined in the Diagnostic and Statistical Manual  
12       of Mental Disorders; or

13       (2) Mental health care or behavioral health care that  
14       respects the gender identity of the patient, as  
15       experienced and defined by the patient, and may  
16       include developmentally appropriate exploration and  
17       integration of identity, reduction of distress,  
18       adaptive coping, or strategies to increase family  
19       acceptance.

20       "Person" includes an individual, partnership, joint  
21       venture, corporation, association, business, trust, or any



1 organized group of persons or legal entity, or any combination  
2 thereof.

3 "Reproductive health care services" includes all medical,  
4 surgical, pharmaceutical, counseling, or referral services  
5 relating to the human reproductive system, including but not  
6 limited to services relating to pregnancy, contraception, or the  
7 termination of a pregnancy.

8 **§323J-2 Disclosures prohibited.** (a) Except as provided  
9 in rules 504, 504.1, and 505.5 of the Hawaii rules of evidence  
10 and subsection (b), or as authorized under the Health Insurance  
11 Portability and Accountability Act of 1996, P.L. 104-191, as  
12 amended, and any federal regulations promulgated thereunder, in  
13 any civil action or any proceeding preliminary thereto or in any  
14 probate, legislative, or administrative proceeding, no covered  
15 entity[~~, as defined in title 45 Code of Federal Regulations~~  
16 ~~section 160.103, or as the same as may be from time to time~~  
17 ~~amended or modified,~~] shall disclose:

18 (1) Any communication made to the covered entity, or any  
19 information obtained by the covered entity, from a  
20 patient or the conservator, guardian, or other  
21 authorized legal representative of a patient relating



1 to reproductive health care services or  
2 gender-affirming health care services that are  
3 [~~permitted~~] lawful under the laws of [~~the~~] this State;  
4 or

5 (2) Any information obtained by personal examination of a  
6 patient relating to reproductive health care services  
7 or gender-affirming health care services that are  
8 [~~permitted~~] lawful under the laws of [~~the~~] this State,  
9 unless the patient or that patient's conservator, guardian, or  
10 other authorized legal representative explicitly consents to the  
11 disclosure in writing in the form of a release of protected  
12 health information compliant with the federal Health Insurance  
13 Portability and Accountability Act of 1996, P.L. 104-191, as  
14 amended, and any federal regulations promulgated thereunder. A  
15 covered entity shall inform the patient or the patient's  
16 conservator, guardian, or other authorized legal representative  
17 of the patient's right to withhold the written consent.

18 (b) Written consent of the patient or the patient's  
19 conservator, guardian, or other authorized legal representative  
20 shall not be required for the disclosure of the communication or  
21 information[+] described under subsection (a):



- 1 (1) If the [~~records relate~~] communication or information  
2 relates to a patient who is a plaintiff in a complaint  
3 pending before a court of competent jurisdiction  
4 alleging health care negligence and a request for  
5 [~~records~~] the communication or information has been  
6 served on a named defendant in that litigation;
- 7 (2) If the [~~records are~~] communication or information is  
8 requested by a licensing authority, as defined in  
9 section 436B-2, and the request is made in connection  
10 with an investigation of a complaint to the licensing  
11 authority and the [~~records are~~] communication or  
12 information is related to the complaint, unless the  
13 complaint is made solely on the basis that the  
14 licensee, acting within the licensee's scope of  
15 practice, provided reproductive health care services  
16 or gender-affirming health care services that are  
17 lawful [~~in~~] under the laws of this State;
- 18 (3) To the director of health [~~for records of a patient of~~  
19 ~~a covered entity in connection with an investigation~~  
20 ~~of a complaint,~~] if the [~~records are~~] communication or



1           information is related to the investigation of a  
2           complaint; or

3           (4) If child abuse, abuse of an individual who is sixty  
4           years of age or older, abuse of an individual who is  
5           physically disabled or incompetent, or abuse of an  
6           individual with an intellectual disability is known or  
7           in good faith suspected[-]; provided that reproductive  
8           health care services or gender-affirming health care  
9           services that are lawful under the laws of this State  
10          shall not alone constitute abuse.

11          (c) Nothing in this section shall be construed to impede  
12          the lawful sharing of medical records as permitted by state or  
13          federal law or the rules of the court, except in the case of a  
14          subpoena or warrant issued by a court, government agency, or  
15          legislative body of another state commanding the production,  
16          copying, or inspection of medical records relating to  
17          reproductive health care services[-] or gender-affirming health  
18          care services that are lawful under the laws of this State.

19          (d) As used in this section:

20          "Communication or information" does not include uses and  
21          disclosures that covered entities are not required to be in an



1 accounting of disclosures pursuant to title 45 Code of Federal  
2 Regulations section 164.528.

3 "Covered entity" shall have the same meaning as defined in  
4 title 45 Code of Federal Regulations section 160.103, or as the  
5 same as may be from time to time amended or modified.

6 **§323J-3 Subpoenas; when allowed.** Notwithstanding sections  
7 624-27 and 624D-3 or any other law to the contrary, no court or  
8 clerk of a court shall order the issuance of a subpoena  
9 requested by an officer, appointed according to the laws or  
10 usages of another state or government, or by any court of the  
11 United States or of another state or government, in connection  
12 with an out-of-state or interstate investigation or proceeding  
13 relating to reproductive health care services [~~legally performed~~  
14 ~~in the~~] or gender-affirming health care services that are lawful  
15 under the laws of this State.

16 **§323J-4 Agencies prohibited from providing information or**  
17 **expending resources.** (a) No agency, as defined in section  
18 92F-3, or employee, appointee, officer, official, or any other  
19 person acting on behalf of an agency shall provide any nonpublic  
20 information or expend or use time, money, facilities, property,  
21 equipment, personnel, or other resources in furtherance of any



1 out-of-state or interstate investigation or proceeding seeking  
2 to impose civil or criminal liability upon a person or entity  
3 for:

4 (1) ~~[The provision, seeking,]~~ Seeking, receiving, paying  
5 for, [receipt of,] or inquiring about reproductive  
6 health care services ~~[that are legal in the]~~ or  
7 gender-affirming health care services that are lawful  
8 under the laws of this State; [ø]

9 (2) Providing or responding to an inquiry about  
10 reproductive health care services or gender-affirming  
11 health care services that are lawful under the laws of  
12 this State;

13 ~~[-(2)]~~ (3) Assisting [any person or entity providing,  
14 seeking, receiving, paying for, or responding to an  
15 inquiry about reproductive health care services that  
16 are legal in the State.] or aiding or abetting in any  
17 of the conduct described in paragraph (1) or (2); or

18 (4) Attempting or intending to engage in or providing  
19 material support for (or any other theory of  
20 vicarious, attempt, joint, several, or conspiracy



1           liability derived therefrom) conduct described in  
2           paragraphs (1) to (3).

3           (b) This section shall not apply to any investigation or  
4 proceeding where the conduct subject to potential liability  
5 under the investigation or proceeding would be subject to  
6 liability under the laws of this State if committed in this  
7 State.

8           **§323J-5 Prohibition on state action.** The State shall not  
9 penalize, prosecute, or otherwise take adverse action against an  
10 individual based on the individual's actual, potential,  
11 perceived, or alleged pregnancy or gender-affirming health care  
12 outcomes. The State shall not penalize, prosecute, or otherwise  
13 take adverse action against a person for aiding or assisting  
14 [a]:

15           (1) A pregnant individual accessing reproductive health  
16           care services [in accordance with] that are lawful  
17           under the laws of [the] this State and with the  
18           pregnant individual's voluntary consent[-]; or

19           (2) An individual accessing gender-affirming health care  
20           services that are lawful under the laws of this State  
21           and with the individual's voluntary consent.



1           **§323J-6 Denial of demands for surrender.** Notwithstanding  
 2 any provision of chapter 832 to the contrary, the governor shall  
 3 deny any demand made by the executive authority of any state for  
 4 the surrender of any person charged with a crime under the laws  
 5 of that state when the alleged crime involves [~~the provision or~~  
 6 ~~receipt of,~~]:

7           (1) Seeking, receiving, paying for, or [~~assistance with,~~  
 8           inquiring about reproductive health care services[~~7~~  
 9           or gender-affirming health care services;

10          (2) Providing or responding to an inquiry about  
 11          reproductive health care services or gender-affirming  
 12          health care services;

13          (3) Assisting or aiding or abetting in any of the conduct  
 14          described in paragraph (1) or (2); or

15          (4) Attempting or intending to engage in or providing  
 16          material support for (or any other theory of  
 17          vicarious, attempt, joint, several, or conspiracy  
 18          liability derived therefrom) conduct described in  
 19          paragraphs (1) to (3),

20 unless the acts forming the basis of the prosecution would also  
 21 constitute a criminal offense in this State. This section shall



1 not apply to demands made under Article IV, section 2, of the  
2 United States Constitution.

3 **§323J-7 Laws contrary to the public policy of this State.**

4 (a) A law of another state authorizing a civil action or  
5 criminal prosecution based on any of the following [~~is~~] shall be  
6 declared to be contrary to the public policy of this State:

7 (1) [~~Receiving, seeking, or~~] Seeking, receiving, paying  
8 for, or inquiring about reproductive health care  
9 services[~~]~~ or gender-affirming health care services  
10 that are lawful under the laws of this State;

11 (2) Providing or responding to an inquiry about  
12 reproductive health care services[~~]~~ or  
13 gender-affirming health care services that are lawful  
14 under the laws of this State;

15 (3) [~~Engaging in conduct that assists or aids or abets the~~  
16 ~~provision or receipt of reproductive health care~~  
17 ~~services;~~] Assisting or aiding or abetting in any of  
18 the conduct described in paragraph (1) or (2); or

19 (4) Attempting or intending to engage in or providing  
20 material support for (or any other theory of  
21 vicarious, attempt, joint, several, or conspiracy



1 liability derived therefrom) conduct described in  
2 paragraphs (1) to (3) [~~7~~  
3 ~~in accordance with the laws of this State]~~.

4 (b) No law described in subsection (a) shall be applied to  
5 a case or controversy heard in the courts of this State."

6 SECTION 4. Section 451J-11, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) The department shall deny, revoke, condition, or  
9 suspend a license granted pursuant to this chapter on the  
10 following grounds:

11 (1) Conviction by a court of competent jurisdiction of a  
12 crime [~~which~~] that the department has determined, by  
13 rules adopted pursuant to chapter 91, to be of a  
14 nature that renders the person convicted unfit to  
15 practice marriage and family therapy[~~7~~], except when  
16 the conviction was based on the provision or  
17 assistance in receipt or provision of gender-affirming  
18 health care services, as defined under section 323J-1,  
19 so long as the provision or assistance in receipt or  
20 provision of the services was in accordance with the  
21 laws of this State or would have been in accordance



- 1           with the laws of this State if it occurred within this  
2           State;
- 3           (2) Failing to report in writing to the director any  
4           disciplinary decision related to the provision of  
5           mental health services issued against the licensee or  
6           the applicant in any jurisdiction within thirty days  
7           of the disciplinary decision, or within thirty days of  
8           licensure;
- 9           (3) Violation of recognized ethical standards for marriage  
10          and family therapists or licensed marriage and family  
11          therapists as set by the association;
- 12          (4) Fraud or misrepresentation in obtaining or renewing a  
13          license, including making a false certification of  
14          compliance with the continuing education requirement  
15          set forth in section 451J-10;
- 16          (5) Revocation, suspension, or other disciplinary action  
17          by any state or federal agency against a licensee or  
18          applicant for any reason provided under this  
19          section[+], except when the revocation, suspension, or  
20          other disciplinary action was based on the provision  
21          or assistance in receipt or provision of



1           gender-affirming health care services, as defined  
2           under section 323J-1, so long as the provision or  
3           assistance in receipt or provision of the services was  
4           in accordance with the laws of this State or would  
5           have been in accordance with the laws of this State if  
6           it occurred within this State; or

7           (6) Other just and sufficient cause that renders a person  
8           unfit to practice marriage and family therapy."

9           SECTION 5. Section 451J-12, Hawaii Revised Statutes, is  
10          amended to read as follows:

11           "~~§~~451J-12~~§~~ **Confidentiality and privileged**  
12 **communications.** No person licensed as a marriage and family  
13 therapist, nor any of the person's employees or associates,  
14 shall be required to disclose any information that the person  
15 may have acquired in rendering marriage and family therapy  
16 services, except in the following circumstances:

17           (1) As required by law;

18           (2) To prevent a clear and immediate danger to a person or  
19           persons;

20           (3) In the course of a civil, criminal, or disciplinary  
21           action arising from the therapy where the therapist is



1           a defendant[~~+~~], except when the civil, criminal, or  
2           disciplinary action by another state or federal agency  
3           is based on the provision or assistance in receipt or  
4           provision of gender-affirming health care services, as  
5           defined under section 323J-1, so long as the provision  
6           or assistance in receipt or provision of the services  
7           was in accordance with the laws of this State or would  
8           have been in accordance with the laws of this State if  
9           it occurred within this State;

10          (4) In a criminal proceeding where the client is a  
11           defendant and the use of the privilege would violate  
12           the defendant's right to a compulsory process of the  
13           right to present testimony and witnesses in the  
14           defendant's own behalf;

15          (5) In accordance with the terms of a client's previously  
16           written waiver of the privilege; or

17          (6) Where more than one person in a family jointly  
18           receives therapy and each [~~family member~~] person who  
19           is legally competent executes a written waiver[~~;~~ in].  
20           In that instance, a therapist may disclose information



1 received from any [~~family member~~] person in accordance  
2 with the terms of [~~the~~] that person's waiver."

3 SECTION 6. Section 453-8, Hawaii Revised Statutes, is  
4 amended by amending subsections (a), (b), and (c) to read as  
5 follows:

6 "(a) In addition to any other actions authorized by law,  
7 any license to practice medicine and surgery may be revoked,  
8 limited, or suspended by the board at any time in a proceeding  
9 before the board, or may be denied, for any cause authorized by  
10 law, including but not limited to the following:

11 (1) Procuring, or aiding or abetting in procuring, an  
12 abortion that is unlawful under the laws of this State  
13 or that would be unlawful under the laws of this State  
14 if performed within this State;

15 (2) Employing any person to solicit patients for one's  
16 self;

17 (3) Engaging in false, fraudulent, or deceptive  
18 advertising, including but not limited to:

19 (A) Making excessive claims of expertise in one or  
20 more medical specialty fields;



- 1 (B) Assuring a permanent cure for an incurable  
2 disease; or
- 3 (C) Making any untruthful and improbable statement in  
4 advertising one's medical or surgical practice or  
5 business;
- 6 (4) Being habituated to the excessive use of drugs or  
7 alcohol; or being addicted to, dependent on, or a  
8 habitual user of a narcotic, barbiturate, amphetamine,  
9 hallucinogen, or other drug having similar effects;
- 10 (5) Practicing medicine while the ability to practice is  
11 impaired by alcohol, drugs, physical disability, or  
12 mental instability;
- 13 (6) Procuring a license through fraud, misrepresentation,  
14 or deceit, or knowingly permitting an unlicensed  
15 person to perform activities requiring a license;
- 16 (7) Professional misconduct, hazardous negligence causing  
17 bodily injury to another, or manifest incapacity in  
18 the practice of medicine or surgery;
- 19 (8) Incompetence or multiple instances of negligence,  
20 including but not limited to the consistent use of



- 1 medical service, [~~which~~] that is inappropriate or  
2 unnecessary;
- 3 (9) Conduct or practice contrary to recognized standards  
4 of ethics of the medical profession as adopted by the  
5 Hawaii Medical Association, the American Medical  
6 Association, the Hawaii Association of Osteopathic  
7 Physicians and Surgeons, or the American Osteopathic  
8 Association;
- 9 (10) Violation of the conditions or limitations upon which  
10 a limited or temporary license is issued;
- 11 (11) Revocation, suspension, or other disciplinary action  
12 by another state or federal agency of a license,  
13 certificate, or medical privilege, except when the  
14 revocation, suspension, or other disciplinary action  
15 was based on the provision or assistance in receipt or  
16 provision of [~~medical~~]:
- 17 (A) Medical, surgical, pharmaceutical, counseling, or  
18 referral services relating to the human  
19 reproductive system, including but not limited to  
20 services relating to pregnancy, contraception, or  
21 the termination of a pregnancy[~~7~~]; or



1           (B) Gender-affirming health care services, as defined  
2                           under section 323J-1,  
3           so long as the provision or assistance in receipt or  
4           provision of the services was in accordance with the  
5           laws of this State or would have been in accordance  
6           with the laws of this State if it occurred within this  
7           State;

8           (12) Conviction, whether by nolo contendere or otherwise,  
9           of a penal offense substantially related to the  
10          qualifications, functions, or duties of a physician or  
11          osteopathic physician, notwithstanding any statutory  
12          provision to the contrary, except when the conviction  
13          was based on the provision or assistance in receipt or  
14          provision of [~~medical,~~]:

15          (A) Medical, surgical, pharmaceutical, counseling, or  
16          referral services relating to the human  
17          reproductive system, including but not limited to  
18          services relating to pregnancy, contraception, or  
19          the termination of a pregnancy[~~;~~]; or

20          (B) Gender-affirming health care services, as defined  
21                           under section 323J-1,



1           so long as the provision or assistance in receipt or  
2           provision of the services was in accordance with the  
3           laws of this State or would have been in accordance  
4           with the laws of this State if it occurred within this  
5           State;

6           (13) Violation of chapter 329, the uniform controlled  
7           substances act, or any rule adopted thereunder except  
8           as provided in section 329-122;

9           (14) Failure to report to the board, in writing, any  
10          disciplinary decision issued against the licensee or  
11          the applicant in another jurisdiction within thirty  
12          days after the disciplinary decision is issued; or

13          (15) Submitting to or filing with the board any notice,  
14          statement, or other document required under this  
15          chapter[~~, which~~] that is false or untrue or contains  
16          any material misstatement or omission of fact.

17          (b) If disciplinary action related to the practice of  
18          medicine has been taken against the applicant by another state  
19          or federal agency, or if the applicant reveals a physical or  
20          mental condition that would constitute a violation under this



1 section, then the board may impose one or more of the following  
2 requirements as a condition for licensure:

3 (1) Physical and mental evaluation of the applicant by a  
4 licensed physician or osteopathic physician approved  
5 by the board;

6 (2) Probation, including conditions of probation such as  
7 requiring observation of the licensee by an  
8 appropriate group or society of licensed physicians,  
9 osteopathic physicians, or surgeons;

10 (3) Limitation of the license by restricting the fields of  
11 practice in which the licensee may engage;

12 (4) Further education or training or proof of performance  
13 competency; and

14 (5) Limitation of the medical practice of the licensee in  
15 any reasonable manner to assure the safety and welfare  
16 of the consuming public;

17 provided that the board shall not impose as a condition for  
18 licensure any of the requirements pursuant to this subsection if  
19 the disciplinary action related to the practice of medicine  
20 taken against the applicant was based on the provision or  
21 assistance in receipt or provision of medical, surgical,



1 pharmaceutical, counseling, or referral services relating to the  
2 human reproductive system, including but not limited to services  
3 relating to pregnancy, contraception, or the termination of a  
4 pregnancy, or the provision or assistance in receipt or  
5 provision of gender-affirming health care services, as defined  
6 under section 323J-1, so long as the provision or assistance in  
7 receipt or provision of the services was in accordance with the  
8 laws of this State or would have been in accordance with the  
9 laws of this State if it occurred within this State.

10 (c) Notwithstanding any other law to the contrary, the  
11 board may deny a license to any applicant who has been  
12 disciplined by another state or federal agency, except on the  
13 basis of discipline for the provision or assistance in receipt  
14 or provision of medical, surgical, pharmaceutical, counseling,  
15 or referral services relating to the human reproductive system,  
16 including but not limited to services relating to pregnancy,  
17 contraception, or the termination of a pregnancy, or the  
18 provision or assistance in receipt or provision of  
19 gender-affirming health care services, as defined under section  
20 323J-1, so long as the provision or assistance in receipt or  
21 provision of the services was in accordance with the laws of



1 this State or would have been in accordance with the laws of  
2 this State if it occurred within this State. Any final order of  
3 discipline taken pursuant to this subsection shall be a matter  
4 of public record."

5 SECTION 7. Section 453-8.6, Hawaii Revised Statutes, is  
6 amended as follows:

7 1. By amending subsection (a) to read:

8 "(a) Upon receipt of evidence of revocation, suspension,  
9 or other disciplinary action against a licensee by another state  
10 or federal agency, the board may issue an order imposing  
11 disciplinary action upon the licensee on the following  
12 conditions:

13 (1) The board shall serve the licensee with a proposed  
14 order imposing disciplinary action as required by  
15 chapter 91;

16 (2) The licensee shall have the right to request a hearing  
17 pursuant to chapter 91 to show cause why the action  
18 described in the proposed order should not be imposed;

19 (3) Any request for a hearing shall be made in writing and  
20 filed with the board within twenty days after mailing  
21 of the proposed order to the licensee; and



1 (4) If the licensee does not submit a written request for  
 2 a hearing within twenty days after mailing of the  
 3 proposed order, the board may issue a final order  
 4 imposing the disciplinary action described in the  
 5 proposed order;  
 6 provided that the board shall not issue an order imposing  
 7 disciplinary action upon the licensee if the revocation,  
 8 suspension, or other disciplinary action against a licensee by  
 9 another state was based on the provision or assistance in  
 10 receipt or provision of medical, surgical, pharmaceutical,  
 11 counseling, or referral services relating to the human  
 12 reproductive system, including but not limited to services  
 13 relating to pregnancy, contraception, or the termination of a  
 14 pregnancy, or the provision or assistance in receipt or  
 15 provision of gender-affirming health care services, as defined  
 16 under section 323J-1, so long as the provision or assistance in  
 17 receipt or provision of the services was in accordance with the  
 18 laws of this State or would have been in accordance with the  
 19 laws of this State if it occurred within this State."

20 2. By amending subsection (c) to read:



1           "(c) A licensee against whom the board has issued a  
2 proposed order under this section shall be prohibited from  
3 practicing in this State until the board issues a final order  
4 if:

5           (1) The licensee was the subject of disciplinary action by  
6 another state, except where the disciplinary action  
7 against the licensee by another state was based on the  
8 provision or assistance in receipt or provision of  
9 [medical]:

10           (A) Medical, surgical, pharmaceutical, counseling, or  
11           referral services relating to the human  
12           reproductive system, including but not limited to  
13           services relating to pregnancy, contraception, or  
14           the termination of a pregnancy~~[r]~~; or

15           (B) Gender-affirming health care services, as defined  
16           under section 323J-1,

17           so long as the provision or assistance in receipt or  
18           provision of the services was in accordance with the  
19           laws of this State or would have been in accordance  
20           with the laws of this State if it occurred within this  
21           State; and



1           (2) The disciplinary action by another state prohibits the  
2           licensee from practicing in that state."

3           SECTION 8. Section 453D-12, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5           "(a) In addition to any other acts or conditions provided  
6 by law, the director may refuse to renew, reinstate, or restore,  
7 and may deny, revoke, suspend, or condition in any manner, any  
8 license for any one or more of the following acts or conditions  
9 on the part of a licensee or license applicant:

10          (1) Failing to meet or maintain the conditions and  
11           requirements necessary to qualify for the granting of  
12           a license;

13          (2) Engaging in false, fraudulent, or deceptive  
14           advertising, or making untruthful or improbable  
15           statements;

16          (3) Being addicted to, dependent on, or a habitual user of  
17           a narcotic, barbiturate, amphetamine, hallucinogen,  
18           opium, cocaine, or other drugs or derivatives of a  
19           similar nature;



- 1 (4) Practicing the licensed profession while impaired by  
2 alcohol, drugs, physical disability, or mental  
3 instability;
- 4 (5) Procuring a license through fraud, misrepresentation,  
5 or deceit;
- 6 (6) Aiding and abetting an unlicensed person to directly  
7 or indirectly perform activities requiring a license;
- 8 (7) Professional misconduct, incompetence, gross  
9 negligence, or manifest incapacity, in the practice of  
10 the licensed profession;
- 11 (8) Engaging in conduct or practice contrary to recognized  
12 standards of ethics for the licensed profession;
- 13 (9) Violating any condition or limitation upon which a  
14 conditional or temporary license was issued;
- 15 (10) Engaging in business under a past or present license  
16 issued pursuant to the licensing laws, in a manner  
17 causing injury to one or more members of the public;
- 18 (11) Failing to comply with, observe, or adhere to any law  
19 in a manner [~~such~~] that the director deems the  
20 applicant or holder to be an unfit or improper person  
21 to hold a license;



- 1           (12) Having had a license revoked or suspended, or having  
2           been the subject of other disciplinary action, by  
3           another state or a federal agency for any reason  
4           provided by the licensing laws or this section[+],  
5           except when the revocation, suspension, or other  
6           disciplinary action was based on the provision or  
7           assistance in receipt or provision of gender-affirming  
8           health care services, as defined under section 323J-1,  
9           so long as the provision or assistance in receipt or  
10          provision of the services was in accordance with the  
11          laws of this State or would have been in accordance  
12          with the laws of this State if it occurred within this  
13          State;
- 14          (13) Having been convicted of a crime, whether by nolo  
15          contendere or otherwise, directly related to the  
16          qualifications, functions, or duties of the licensed  
17          profession[+], except when the conviction was based on  
18          the provision or assistance in receipt or provision of  
19          gender-affirming health care services, as defined  
20          under section 323J-1, so long as the provision or  
21          assistance in receipt or provision of the services was



1           in accordance with the laws of this State or would  
2           have been in accordance with the laws of this State if  
3           it occurred within this State;

4           (14) Failing to report in writing to the director any  
5           disciplinary decision issued against the licensee or  
6           applicant in another jurisdiction within thirty days  
7           of the disciplinary decision;

8           (15) Employing, utilizing, or attempting to employ or  
9           utilize, at any time, any person not licensed under  
10          the licensing laws where licensure is required; or

11          (16) Violating this chapter, chapter 436B, or any rule or  
12          order of the director."

13          SECTION 9. Section 453D-13, Hawaii Revised Statutes, is  
14          amended to read as follows:

15          "~~§~~453D-13~~§~~ **Confidentiality and privileged**  
16          **communications.** No person licensed as a mental health  
17          counselor, nor any of the person's employees or associates,  
18          shall be required to disclose any information that the person  
19          may have acquired in rendering mental health counseling  
20          services, except in the following circumstances:

21               (1) As required by law;



- 1 (2) To prevent a clear and imminent danger to a person or  
2 persons;
- 3 (3) In accordance with the terms of a previously written  
4 waiver of the privilege where the waiver is executed  
5 by the client or by the client's legally recognized  
6 representative;
- 7 (4) Where more than one person jointly receives counseling  
8 and each person who is legally competent executes a  
9 written waiver. In that instance, a mental health  
10 counselor may disclose information from any person in  
11 accordance with that person's waiver; or
- 12 (5) In the course of a disciplinary action or pursuant to  
13 a duly authorized subpoena issued by the  
14 department[-], except when the disciplinary action by  
15 another federal or state agency is based on the  
16 provision or assistance in receipt or provision of  
17 gender-affirming health care services, as defined  
18 under section 323J-1, so long as the provision or  
19 assistance in receipt or provision of the services was  
20 in accordance with the laws of this State or would



1           have been in accordance with the laws of this State if  
2           it occurred within this State."

3           SECTION 10. Section 457-12, Hawaii Revised Statutes, is  
4 amended by amending subsections (a) and (b) to read as follows:

5           "(a) In addition to any other actions authorized by law,  
6 the board shall have the power to deny, revoke, limit, or  
7 suspend any license to practice nursing as a registered nurse or  
8 as a licensed practical nurse applied for or issued by the board  
9 in accordance with this chapter, and to fine or to otherwise  
10 discipline a licensee for any cause authorized by law, including  
11 but not limited to the following:

- 12           (1) Fraud or deceit in procuring or attempting to procure  
13           a license to practice nursing as a registered nurse or  
14           as a licensed practical nurse;
- 15           (2) Gross immorality;
- 16           (3) Unfitness or incompetence by reason of negligence,  
17           habits, or other causes;
- 18           (4) Habitual intemperance, addiction to, or dependency on  
19           alcohol or other habit-forming substances;
- 20           (5) Mental incompetence;



- 1 (6) Unprofessional conduct as defined by the board in  
2 accordance with its own rules;
- 3 (7) Wilful or repeated violation of any of the provisions  
4 of this chapter or any rule adopted by the board;
- 5 (8) Revocation, suspension, limitation, or other  
6 disciplinary action by another state of a nursing  
7 license, except when the revocation, suspension,  
8 limitation, or other disciplinary action by another  
9 state was based on the provision or assistance in  
10 receipt or provision of ~~medical~~]:
- 11 (A) Medical, surgical, pharmaceutical, counseling, or  
12 referral services relating to the human  
13 reproductive system, including but not limited to  
14 services relating to pregnancy, contraception, or  
15 the termination of a pregnancy]; or
- 16 (B) Gender-affirming health care services, as defined  
17 under section 323J-1,
- 18 so long as the provision or assistance in receipt or  
19 provision of the services was in accordance with the  
20 laws of this State or would have been in accordance



1 with the laws of this State if it occurred within this  
2 State;

3 (9) Conviction, whether by nolo contendere or otherwise,  
4 of a penal offense substantially related to the  
5 qualifications, functions, or duties of a nurse,  
6 notwithstanding any statutory provision to the  
7 contrary, except when the conviction was based on the  
8 provision or assistance in receipt or provision of  
9 [medical];

10 (A) Medical, surgical, pharmaceutical, counseling, or  
11 referral services relating to the human  
12 reproductive system, including but not limited to  
13 services relating to pregnancy, contraception, or  
14 the termination of a pregnancy~~[7]~~; or

15 (B) Gender-affirming health care services, as defined  
16 under section 323J-1,  
17 so long as the provision or assistance in receipt or  
18 provision of the services was in accordance with the  
19 laws of this State or would have been in accordance  
20 with the laws of this State if it occurred within this  
21 State;



- 1 (10) Failure to report to the board any disciplinary action  
2 taken against the licensee in another jurisdiction  
3 within thirty days after the disciplinary action  
4 becomes final;
- 5 (11) Submitting to or filing with the board any notice,  
6 statement, or other document required under this  
7 chapter~~[, which]~~ that is false or untrue or contains  
8 any material misstatement of fact, including a false  
9 attestation of compliance with continuing competency  
10 requirements; or
- 11 (12) Violation of the conditions or limitations upon which  
12 any license is issued.
- 13 (b) Notwithstanding any other law to the contrary, the  
14 board may deny a license to any applicant who has been  
15 disciplined by another state, except on the basis of discipline  
16 by another state for the provision or assistance in receipt or  
17 provision of ~~[medical,]~~:
- 18 (1) Medical, surgical, pharmaceutical, counseling, or  
19 referral services relating to the human reproductive  
20 system, including but not limited to services relating



1 to pregnancy, contraception, or the termination of a  
2 pregnancy[~~r~~]; or

3 (2) Gender-affirming health care services, as defined  
4 under section 323J-1,

5 so long as the provision or assistance in receipt or provision  
6 of the services was in accordance with the laws of this State or  
7 would have been in accordance with the laws of this State if it  
8 occurred within this State. Any final order entered pursuant to  
9 this subsection shall be a matter of public record."

10 SECTION 11. Section 457-12.5, Hawaii Revised Statutes, is  
11 amended as follows:

12 1. By amending subsection (a) to read:

13 "(a) Upon receipt of evidence of revocation, suspension,  
14 or other disciplinary action against a licensee in another  
15 state, the board may issue an order imposing disciplinary action  
16 upon the licensee on the following conditions:

17 (1) The board shall serve the licensee with a proposed  
18 order imposing disciplinary action as required by  
19 chapter 91;



1           (2) The licensee shall have the right to request a hearing  
2           pursuant to chapter 91 to show cause why the action  
3           described in the proposed order should not be imposed;

4           (3) Any request for a hearing shall be made in writing and  
5           filed with the board within twenty days after mailing  
6           of the proposed order to the licensee; and

7           (4) If the licensee does not submit a written request for  
8           a hearing within twenty days after mailing of the  
9           proposed order, the board shall issue a final order  
10          imposing the disciplinary action described in the  
11          proposed order;

12 provided that the board shall not issue an order imposing  
13 disciplinary action upon the licensee if the revocation,  
14 suspension, or other disciplinary action against a licensee by  
15 another state was based on the provision or assistance in  
16 receipt or provision of medical, surgical, pharmaceutical,  
17 counseling, or referral services relating to the human  
18 reproductive system, including but not limited to services  
19 relating to pregnancy, contraception, or the termination of a  
20 pregnancy, or the provision or assistance in receipt or  
21 provision of gender-affirming health care services, as defined



1 under section 323J-1, so long as the provision or assistance in  
2 receipt or provision of the services was in accordance with the  
3 laws of this State or would have been in accordance with the  
4 laws of this State if it occurred within this State."

5 2. By amending subsection (c) to read:

6 "(c) A licensee against whom the board has issued a  
7 proposed order under this section shall be prohibited from  
8 practicing in this State until the board issues a final order  
9 if:

10 (1) The licensee was the subject of disciplinary action by  
11 another state, except where the disciplinary action  
12 against the licensee by another state was based on the  
13 provision or assistance in receipt or provision of  
14 [medical]:

15 (A) Medical, surgical, pharmaceutical, counseling, or  
16 referral services relating to the human  
17 reproductive system, including but not limited to  
18 services relating to pregnancy, contraception, or  
19 the termination of a pregnancy~~[7]~~; or

20 (B) Gender-affirming health care services, as defined  
21 under section 323J-1,



1           so long as the provision or assistance in receipt or  
2           provision of the services was in accordance with the  
3           laws of this State or would have been in accordance  
4           with the laws of this State if it occurred within this  
5           State; and

6           (2) The disciplinary action in the other state prohibits  
7           the licensee from practicing in that state."

8           SECTION 12. Section 461-21.5, Hawaii Revised Statutes, is  
9           amended as follows:

10          1. By amending subsection (a) to read:

11          "(a) Upon receipt of evidence of revocation, suspension,  
12          or other disciplinary action against a licensee by another state  
13          or federal agency, the board may issue an order imposing  
14          disciplinary action upon the licensee on the following  
15          conditions:

16          (1) The board shall serve the licensee with a proposed  
17          order imposing disciplinary action as required by  
18          chapter 91;

19          (2) The licensee shall have the right to request a hearing  
20          pursuant to chapter 91 to show cause why the action  
21          described in the proposed order should not be imposed;



1           (3) Any request for a hearing shall be made in writing and  
2           filed with the board within twenty days after mailing  
3           of the proposed order to the licensee; and

4           (4) If the licensee does not submit a written request for  
5           a hearing within twenty days after mailing of the  
6           proposed order, the board shall issue a final order  
7           imposing the disciplinary action described in the  
8           proposed order;

9 provided that the board shall not issue an order imposing  
10 disciplinary action upon the licensee if the revocation,  
11 suspension, or other disciplinary action against a licensee by  
12 another state was based on the provision or assistance in  
13 receipt or provision of medical, surgical, pharmaceutical,  
14 counseling, or referral services relating to the human  
15 reproductive system, including but not limited to services  
16 relating to pregnancy, contraception, or the termination of a  
17 pregnancy, or the provision or assistance in receipt or  
18 provision of gender-affirming health care services, as defined  
19 under section 323J-1, so long as the provision or assistance in  
20 receipt or provision of the services was in accordance with the



1 laws of this State or would have been in accordance with the  
2 laws of this State if it occurred within this State."

3 2. By amending subsection (c) to read:

4 "(c) A licensee against whom the board has issued a  
5 proposed order under this section shall be prohibited from  
6 practicing in this State until the board issues a final order  
7 if:

8 (1) The licensee was the subject of disciplinary action by  
9 another state, except where the disciplinary action  
10 against the licensee by another state was based on the  
11 provision or assistance in receipt or provision of  
12 ~~medical~~]:

13 (A) Medical, surgical, pharmaceutical, counseling, or  
14 referral services relating to the human  
15 reproductive system, including but not limited to  
16 services relating to pregnancy, contraception, or  
17 the termination of a pregnancy~~]~~; or

18 (B) Gender-affirming health care services, as defined  
19 under section 323J-1,

20 so long as the provision or assistance in receipt or  
21 provision of the services was in accordance with the



1 laws of this State or would have been in accordance  
2 with the laws of this State if it occurred within this  
3 State; and

4 (2) The disciplinary action by another state prohibits the  
5 licensee from practicing in that state."

6 SECTION 13. Section 465-13, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) In addition to any other actions authorized by law,  
9 the board shall refuse to grant a license to any applicant and  
10 may revoke or suspend any license, or may place a license or  
11 [~~may~~] put a license holder on conditional probation, for any  
12 cause authorized by law, including but not limited to the  
13 following:

14 (1) Professional misconduct, gross carelessness, manifest  
15 incapacity, or incompetency in the practice of  
16 psychology;

17 (2) Violation of this chapter by the applicant within one  
18 year of the application, or violation of this chapter  
19 by a license holder any time the license is valid;

20 (3) Any unethical practice of psychology as defined by the  
21 board in accordance with its own rules;



- 1 (4) Fraud or deception in applying for or procuring a  
2 license to practice psychology as defined in section  
3 465-1;
- 4 (5) Conviction of a crime substantially related to the  
5 qualifications, functions, or duties of  
6 psychologists[+], except when the conviction was based  
7 on the provision or assistance in receipt or provision  
8 of gender-affirming health care services, as defined  
9 under section 323J-1, so long as the provision or  
10 assistance in receipt or provision of the services was  
11 in accordance with the laws of this State or would  
12 have been in accordance with the laws of this State if  
13 it occurred within this State;
- 14 (6) Wilful unauthorized communication of information  
15 received in professional confidence;
- 16 (7) The suspension, revocation, or imposition of  
17 probationary conditions by another state of a license  
18 or certificate to practice psychology issued by that  
19 state if the act for which the disciplinary action was  
20 taken constitutes a violation of this chapter;



- 1 (8) The commission of any dishonest, corrupt, or  
2 fraudulent act or any act of sexual abuse, or sexual  
3 relations with a client, or sexual misconduct that is  
4 substantially related to the qualifications,  
5 functions, or duties of a psychologist;
- 6 (9) Harassment, intimidation, or abuse, sexual or  
7 otherwise, of a client or patient;
- 8 (10) Exercising undue influence in the manner as to exploit  
9 the client, patient, student, or supervisee for  
10 financial or other personal advantage to the  
11 practitioner or a third party;
- 12 (11) Conviction of fraud in filing medicaid claims or  
13 conviction of fraud in filing claims to any third  
14 party payor, for which a copy of the record of  
15 conviction, certified by the clerk of the court  
16 entering the conviction, shall be conclusive evidence;
- 17 (12) Aiding or abetting any unlicensed person to engage in  
18 the practice of psychology;
- 19 (13) Repeated acts of excessive treatment or use of  
20 diagnostic procedures as determined by the standard of  
21 the local community of licensees;



- 1 (14) Inability to practice psychology with reasonable skill  
2 and safety to patients or clients by reason of  
3 illness, inebriation, or excessive use of any  
4 substance, or as a result of any mental or physical  
5 condition;
- 6 (15) Conviction of any crime or offense that reflects the  
7 inability of the practitioner to practice psychology  
8 with due regard for the health and safety of clients  
9 or patients;
- 10 (16) Use of untruthful or deceptive or improbable  
11 statements concerning the licensee's qualifications or  
12 the effects or results of proposed treatment;
- 13 (17) Functioning outside of the licensee's professional  
14 competence established by education, training, and  
15 experience;
- 16 (18) Refusal to comply with any written order of the board;
- 17 (19) Making any fraudulent or untrue statement to the  
18 board, including a false certification of compliance  
19 with the continuing education requirement of section  
20 465-11; or
- 21 (20) Violation of a board rule."



1 SECTION 14. Section 583A-102, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 "Gender-affirming health care services" shall have the  
5 same meaning as in section 323J-1."

6 SECTION 15. Section 583A-201, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[~~§~~583A-201~~§~~] **Initial child-custody jurisdiction.** (a)  
9 Except as otherwise provided in section 583A-204, a court of  
10 this State [~~has~~] shall have jurisdiction to make an initial  
11 child-custody determination only if:

12 (1) This State is the home state of the child on the date  
13 of the commencement of the proceeding, or was the home  
14 state of the child within six months before the  
15 commencement of the proceeding and the child is absent  
16 from this State but a parent or person acting as a  
17 parent continues to live in this State;

18 (2) A court of another state does not have jurisdiction  
19 under paragraph (1), or a court of the home state of  
20 the child has declined to exercise jurisdiction on the



1 ground that this State is the more appropriate forum  
2 under section 583A-207 or 583A-208, and:

3 (A) The child and the child's parents, or the child  
4 and at least one parent or a person acting as a  
5 parent, have a significant connection with this  
6 State other than mere physical presence; and

7 (B) Substantial evidence is available in this State  
8 concerning the child's care, protection,  
9 training, and personal relationships;

10 (3) All courts having jurisdiction under paragraph (1) or  
11 (2) have declined to exercise jurisdiction on the  
12 ground that a court of this State is the more  
13 appropriate forum to determine the custody of the  
14 child under section 583A-207 or 583A-208; or

15 (4) No court of any other state would have jurisdiction  
16 under the criteria specified in paragraph (1), (2), or  
17 (3).

18 (b) Subsection (a) shall be the exclusive jurisdictional  
19 basis for making a child-custody determination by a court of  
20 this State.



1 (c) Physical presence of, or personal jurisdiction over, a  
2 party or [a] child shall not be necessary or sufficient to make  
3 a child-custody determination.

4 (d) The presence of a child in this State for the purpose  
5 of obtaining gender-affirming health care services shall be  
6 sufficient to meet the requirements of subsection (a) (2)."

7 SECTION 16. Section 583A-204, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) A court of this State [~~has~~] shall have temporary  
10 emergency jurisdiction if the child is present in this State and  
11 the child has been abandoned or it is necessary in an emergency  
12 to protect the child because [~~the~~]:

13 (1) The child, or a sibling or parent of the child, is  
14 subjected to or threatened with mistreatment or  
15 abuse[~~-~~]; or

16 (2) The child has been unable to obtain gender-affirming  
17 health care services."

18 SECTION 17. Section 583A-207, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "[~~+~~]**\$583A-207**[~~+~~] **Inconvenient forum.** (a) A court of this  
21 State [~~which~~] that has jurisdiction under this chapter to make a



1 child-custody determination may decline to exercise its  
2 jurisdiction at any time if it determines that it is an  
3 inconvenient forum under the circumstances and that a court of  
4 another state is a more appropriate forum. The issue of  
5 inconvenient forum may be raised upon the motion of a party, the  
6 court's own motion, or request of another court.

7 (b) Before determining whether it is an inconvenient  
8 forum, a court of this State shall consider whether it is  
9 appropriate for a court of another state to exercise  
10 jurisdiction. For this purpose, the court shall allow the  
11 parties to submit information and shall consider all relevant  
12 factors, including:

- 13 (1) Whether domestic violence has occurred and is likely  
14 to continue in the future and which state could best  
15 protect the parties and the child;
- 16 (2) The length of time the child has resided outside this  
17 State;
- 18 (3) The distance between the court in this State and the  
19 court in the state that would assume jurisdiction;
- 20 (4) The relative financial circumstances of the parties;



- 1           (5) Any agreement of the parties as to which state should
- 2           assume jurisdiction;
- 3           (6) The nature and location of the evidence required to
- 4           resolve the pending litigation, including testimony of
- 5           the child;
- 6           (7) The ability of the court of each state to decide the
- 7           issue expeditiously and the procedures necessary to
- 8           present the evidence;
- 9           (8) The familiarity of the court of each state with the
- 10          facts and issues in the pending litigation; and
- 11          (9) The physical and psychological health of the parties.
- 12          (c) If a court of this State determines that it is an
- 13          inconvenient forum and that a court of another state is a more
- 14          appropriate forum, it shall stay the proceedings upon condition
- 15          that a child-custody proceeding be promptly commenced in another
- 16          designated state and may impose any other condition the court
- 17          considers just and proper.
- 18          (d) A court of this State may decline to exercise its
- 19          jurisdiction under this chapter if a child-custody determination
- 20          is incidental to an action for divorce or another proceeding,



1 while still retaining jurisdiction over the divorce or other  
2 proceeding.

3 (e) In a case where the provision of gender-affirming  
4 health care services to the child is at issue, a court of this  
5 State shall not determine that it is an inconvenient forum where  
6 the law or policy of the other state that may take jurisdiction  
7 limits the ability of a parent to obtain gender-affirming health  
8 care services for the child."

9 SECTION 18. Section 583A-208, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"[+]§583A-208[+] Jurisdiction declined by reason of**  
12 **conduct.** (a) Except as otherwise provided in section 583A-204,  
13 if a court of this State has jurisdiction under this chapter  
14 because a person seeking to invoke its jurisdiction has engaged  
15 in unjustifiable conduct, the court shall decline to exercise  
16 its jurisdiction unless:

17 (1) The parents and all persons acting as parents have  
18 acquiesced in the exercise of jurisdiction;

19 (2) A court of the state otherwise having jurisdiction  
20 under sections 583A-201 to 583A-203 determines that



1           this State is a more appropriate forum under section  
2           583A-207; or

3           (3) No court of any other state would have jurisdiction  
4           under the criteria specified in sections 583A-201 to  
5           583A-203.

6           (b) If a court of this State declines to exercise its  
7           jurisdiction pursuant to subsection (a), it may fashion an  
8           appropriate remedy to ensure the safety of the child and prevent  
9           a repetition of the unjustifiable conduct, including staying the  
10          proceeding until a child-custody proceeding is commenced in a  
11          court having jurisdiction under sections 583A-201 to 583A-203.

12          (c) If a court dismisses a petition or stays a proceeding  
13          because it declines to exercise its jurisdiction pursuant to  
14          subsection (a), it may assess against the party seeking to  
15          invoke its jurisdiction necessary and reasonable expenses  
16          including costs, communication expenses, attorney's fees,  
17          investigative fees, expenses for witnesses, travel expenses, and  
18          child care during the course of the proceedings, unless the  
19          party from whom fees are sought is a protective parent fleeing  
20          abuse, or the assessment would be clearly inappropriate. The



1 court [~~may~~] shall not assess fees, costs, or expenses against  
2 this State unless authorized by law other than this chapter.

3 (d) In making a determination under this section, a court  
4 shall not consider as a factor weighing against the petitioner  
5 any taking of the child, or retention of the child after a visit  
6 or other temporary relinquishment of physical custody, from the  
7 person who has legal custody if there is evidence that the  
8 taking or retention of the child was for the purposes of  
9 obtaining gender-affirming health care services for the child  
10 and the law or policy of the other state limits the ability of a  
11 parent to obtain gender-affirming health care services for the  
12 child."

13 SECTION 19. Section 636C-9, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 **"§636C-9 Enforcement of foreign penal civil actions**  
16 **relating to protected reproductive health care services~~[-]~~ or**  
17 **protected gender-affirming health care services.** (a) No  
18 judgment or other order arising from a foreign penal civil  
19 action or other penal law banning, restricting, burdening,  
20 punishing, penalizing, or otherwise interfering with the  
21 provision of protected reproductive health care services or



1 protected gender-affirming health care services shall be  
2 enforced in this State.

3 (b) As used in this section:

4 "Foreign penal civil action" means an action authorized by  
5 the law of a state, or of any municipality or other governmental  
6 entity within a state, other than this State, the essential  
7 character and effect of which is to punish an offense against  
8 the public justice of that state, municipality, or other  
9 governmental entity.

10 "Gender-affirming health care services" shall have the same  
11 meaning as in section 323J-1.

12 "Protected gender-affirming health care services" means  
13 gender-affirming health care services that are protected under  
14 the Hawaii State Constitution or otherwise lawful under the laws  
15 of this State or that would be constitutionally protected or  
16 otherwise lawful if performed within this State.

17 "Protected reproductive health care services" means  
18 medical, surgical, pharmaceutical, counseling, or referral  
19 services relating to the human reproductive system, including  
20 but not limited to services relating to pregnancy,  
21 contraception, or termination of a pregnancy, that are protected



1 under the Hawaii State Constitution or otherwise lawful under  
2 the laws of this State or that would be constitutionally  
3 protected or otherwise lawful if performed within this State."

4 SECTION 20. Section 836-2, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§836-2 Summoning witness in this State to testify in**  
7 **another state.** (a) If a judge of a court of record in any  
8 state [~~which~~] that by its laws has made provision for commanding  
9 persons within that state to attend and testify in this State  
10 certifies under the seal of that court that there is a criminal  
11 prosecution pending in that court, or that a grand jury  
12 investigation has commenced or is about to commence, that a  
13 person in this State is a material witness in the prosecution or  
14 grand jury investigation, and that the person's presence will be  
15 required for a specified number of days, upon presentation of  
16 the certificate to any judge of a court of record in this State  
17 in the judicial district in which the person is, the judge shall  
18 fix a time and place for a hearing, and shall make an order  
19 directing the witness to appear at a time and place certain for  
20 the hearing.



1        (b) If at a hearing the judge determines that the witness  
2 is material and necessary, that it will not cause undue hardship  
3 to the witness to be compelled to attend and testify in the  
4 prosecution or a grand jury investigation in the other state,  
5 and that the laws of the state in which the prosecution is  
6 pending, or grand jury investigation has commenced or is about  
7 to commence, and of any other state through which the witness  
8 may be required to pass by ordinary course of travel, will give  
9 to the witness protection from arrest and the service of civil  
10 and criminal process, the judge shall issue a summons, with a  
11 copy of the certificate attached, directing the witness to  
12 attend and testify in the court where the prosecution is  
13 pending, or where a grand jury investigation has commenced or is  
14 about to commence at a time and place specified in the summons[~~7~~  
15 ~~except~~]; provided that no judge shall issue a summons in a case  
16 where prosecution is pending, or where a grand jury  
17 investigation has commenced or is about to commence, for a  
18 criminal violation of a law of another state involving [~~the~~  
19 ~~provision,~~]:

20        (1) Seeking, receiving, paying for, [~~receipt of, or~~  
21        ~~assistance with~~] or inquiring about reproductive



1 health care services [~~as defined in section 323J-1~~] or  
2 gender-affirming health care services;

3 (2) Providing or responding to an inquiry about  
4 reproductive health care services or gender affirming  
5 health care services;

6 (3) Assisting or aiding or abetting in any of the conduct  
7 described in paragraph (1) or (2); or

8 (4) Attempting or intending to engage in or providing  
9 material support for (or any other theory of  
10 vicarious, attempt, joint, several, or conspiracy  
11 liability derived therefrom) conduct described in  
12 paragraphs (1) to (3),

13 unless the acts forming the basis of the prosecution or  
14 investigation would also constitute an offense in this State.  
15 In any hearing, the certificate shall be prima facie evidence of  
16 all the facts stated therein.

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



1 judge for the hearing; and the judge at the hearing being  
2 satisfied of the desirability of the custody and delivery, for  
3 which determination the certificate shall be prima facie proof  
4 of the desirability may, in lieu of issuing subpoena or summons,  
5 order that the witness be forthwith taken into custody and  
6 delivered to an officer of the requesting state.

7 (d) If the witness, who is summoned pursuant to this  
8 section, after being paid or tendered by some properly  
9 authorized person a sum equivalent to the cost of round-trip air  
10 fare to the place where the prosecution is pending and \$30 for  
11 each day, that the witness is required to travel and attend as a  
12 witness, fails without good cause to attend and testify as  
13 directed in the summons, the witness shall be punished in the  
14 manner provided for the punishment of any witness who disobeys a  
15 summons issued from a court of record in this State.

16 (e) As used in this section, "gender-affirming health care  
17 services" and "reproductive health care services" have the same  
18 meaning as in section 323J-1."

19 SECTION 21. If any provision of this Act, or the  
20 application thereof to any person or circumstance, is held  
21 invalid, the invalidity does not affect other provisions or



1 applications of the Act that can be given effect without the  
2 invalid provision or application, and to this end the provisions  
3 of this Act are severable.

4 SECTION 22. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 23. This Act shall take effect on July 1, 3000.



**Report Title:**

Gender-Affirming Health Care Services; Prescriptions;  
Protections; Child Custody

**Description:**

Relaxes the requirements for prescribing certain controlled substances as part of gender-affirming health care services. Expands the protections established under Act 2, SLH 2023, to include gender-affirming health care services. Clarifies jurisdiction under the Uniform Child-Custody Jurisdiction and Enforcement Act for cases involving children who obtain gender-affirming health care services. Effective 7/1/3000. (HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

