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# A BILL FOR AN ACT

RELATING TO HEALTH CARE.

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

1 SECTION 1. The Act shall be known and may be cited as the  
2 Health Care Access Protection Act.

3 SECTION 2. Chapter 583A, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6 "§583A- Laws contrary to the public policy of this  
7 State. A law of another state that authorizes a state agency to  
8 remove a child from a parent or guardian based on the parent or  
9 guardian allowing the child to receive gender-affirming health  
10 care services shall be against the public policy of this State  
11 and shall not be enforced or applied in a case pending in a  
12 court in this State."

13 SECTION 3. Chapter 323J, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "[+]CHAPTER 323J[+]

16 REPRODUCTIVE HEALTH CARE SERVICES AND GENDER-AFFIRMING HEALTH  
17 CARE SERVICES



1            ~~§323J-1~~ **Definitions.** As used in this chapter,  
2 unless the context otherwise requires:

3            "Gender-affirming health care services" includes:

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

8            (A) Suppress the development of endogenous secondary  
9            sex characteristics;

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

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

16           (2) Mental health care or behavioral health care that  
17           respects the gender identity of the patient, as  
18           experienced and defined by the patient, and may  
19           include developmentally appropriate exploration and  
20           integration of identity, reduction of distress,



1           adaptive coping, or strategies to increase family  
2           acceptance.

3           "Person" includes an individual, partnership, joint  
4           venture, corporation, association, business, trust, or any  
5           organized group of persons or legal entity, or any combination  
6           thereof.

7           "Reproductive health care services" includes all medical,  
8           surgical, pharmaceutical, counseling, or referral services  
9           relating to the human reproductive system, including but not  
10          limited to services relating to pregnancy, contraception, or the  
11          termination of a pregnancy.

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



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



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

5 (1) If the [~~records relate~~] communication or information  
6 relates to a patient who is a plaintiff in a complaint  
7 pending before a court of competent jurisdiction  
8 alleging health care negligence and a request for  
9 [~~records~~] the communication or information has been  
10 served on a named defendant in that litigation;

11 (2) If the [~~records are~~] communication or information is  
12 requested by a licensing authority, as defined in  
13 section 436B-2, and the request is made in connection  
14 with an investigation of a complaint to the licensing  
15 authority and the [~~records are~~] communication or  
16 information is related to the complaint, unless the  
17 complaint is made solely on the basis that the  
18 licensee, acting within the licensee's scope of  
19 practice, provided reproductive health care services  
20 or gender-affirming health care services that are  
21 lawful [~~is~~] under the laws of this State;



- 1           (3) To the director of health [~~for records of a patient of~~  
2           ~~a covered entity in connection with an investigation~~  
3           ~~of a complaint,~~] if the [~~records are related~~]  
4           communication or information relates to the  
5           investigation of a complaint; or
- 6           (4) If child abuse, abuse of an individual who is sixty  
7           years of age or older, abuse of an individual who is  
8           physically disabled or incompetent, or abuse of an  
9           individual with an intellectual disability is known or  
10          in good faith suspected[~~-~~]; provided that reproductive  
11          health care services or gender-affirming health care  
12          services that are lawful under the laws of this State  
13          shall not alone constitute abuse.
- 14          (c) Nothing in this section shall be construed to impede  
15          the lawful sharing of medical records as permitted by state or  
16          federal law or the rules of the court, except in the case of a  
17          subpoena or warrant issued by a court, government agency, or  
18          legislative body of another state commanding the production,  
19          copying, or inspection of medical records relating to  
20          reproductive health care services[~~-~~] or gender-affirming health  
21          care services that are lawful under the laws of this State.



1        (d) As used in this section:

2        "Communication or information" does not include uses and  
3        disclosures that covered entities are not required to be in an  
4        accounting of disclosures pursuant to title 45 Code of Federal  
5        Regulations section 164.528.

6        "Covered entity" has the same meaning as in title 45 Code  
7        of Federal Regulations section 160.103, or as the same may be  
8        from time to time amended or modified.

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

19       **[+]§323J-4[+] Agencies prohibited from providing**  
20       **information or expending resources.** (a) No agency, as defined  
21       in section 92F-3, or employee, appointee, officer, official, or



1 any other person acting on behalf of an agency shall provide any  
2 nonpublic information or expend or use time, money, facilities,  
3 property, equipment, personnel, or other resources in  
4 furtherance of any out-of-state or interstate investigation or  
5 proceeding seeking to impose civil or criminal liability upon a  
6 person or entity for:

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

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

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



1        (4) Attempting or intending to engage in or providing  
2        material support for (or any other theory of  
3        vicarious, attempt, joint, several, or conspiracy  
4        liability derived therefrom) conduct described in  
5        paragraphs (1) to (3).

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

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

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



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

4            **[+]§323J-6[+] Denial of demands for surrender.**

5    Notwithstanding any provision of chapter 832 to the contrary,  
6    the governor shall deny any demand made by the executive  
7    authority of any state for the surrender of any person charged  
8    with a crime under the laws of that state when the alleged crime  
9    involves [the provision or receipt of,]:

10        (1) Seeking, receiving, paying for, or [assistance with,]  
11                    inquiring about reproductive health care services[7]  
12                    or gender-affirming health care services;

13        (2) Providing or responding to an inquiry about  
14                    reproductive health care services or gender-affirming  
15                    health care services;

16        (3) Assisting or aiding or abetting in any of the conduct  
17                    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 unless the acts forming the basis of the prosecution would also  
4 constitute a criminal offense in this State. This section shall  
5 not apply to demands made under Article IV, section 2, of the  
6 United States Constitution.

7            ~~[+]§323J-7[+]~~ **Laws contrary to the public policy of this**  
8 **State.** (a) A law of another state authorizing a civil action  
9 or criminal prosecution based on any of the following ~~[is]~~ shall  
10 be declared to be contrary to the public policy of this State:

11            (1) ~~[Receiving, seeking, or]~~ Seeking, receiving, paying  
12            for, or inquiring about reproductive health care  
13            services~~[+]~~ or gender-affirming health care services  
14            that are lawful under the laws of this State;

15            (2) Providing or responding to an inquiry about  
16            reproductive health care services~~[+]~~ or gender-  
17            affirming health care services that are lawful under  
18            the laws of this State;

19            (3) ~~[Engaging in conduct that assists or aids or abets the~~  
20            ~~provision or receipt of reproductive health care~~



1 ~~services;]~~ Assisting or aiding or abetting in any of  
2 the conduct described in paragraph (1) or (2); or  
3 (4) Attempting or intending to engage in or providing  
4 material support for (or any other theory of  
5 vicarious, attempt, joint, several or conspiracy  
6 liability derived therefrom) conduct described in  
7 paragraphs (1) to (3) [~~7~~  
8 ~~in accordance with the laws of this State]~~.

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

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

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

16 (1) Conviction by a court of competent jurisdiction of a  
17 crime [~~which~~] that the department has determined, by  
18 rules adopted pursuant to chapter 91, to be of a  
19 nature that renders the person convicted unfit to  
20 practice marriage and family therapy[~~+~~], except when  
21 the conviction was based on the provision or



1           assistance in receipt or provision of gender-affirming  
2           health care services, as defined in section 323J-1, so  
3           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           (2) Failing to report in writing to the director any  
9           disciplinary decision related to the provision of  
10          mental health services issued against the licensee or  
11          the applicant in any jurisdiction within thirty days  
12          of the disciplinary decision, or within thirty days of  
13          licensure;

14          (3) Violation of recognized ethical standards for marriage  
15          and family therapists or licensed marriage and family  
16          therapists as set by the association;

17          (4) Fraud or misrepresentation in obtaining or renewing a  
18          license, including making a false certification of  
19          compliance with the continuing education requirement  
20          set forth in section 451J-10;



- 1 (5) Revocation, suspension, or other disciplinary action
- 2 by any state or federal agency against a licensee or
- 3 applicant for any reason provided under this
- 4 section[†], except when the revocation, suspension, or
- 5 other disciplinary action was based on the provision
- 6 or assistance in receipt or provision of gender-
- 7 affirming health care services, as defined in section
- 8 323J-1, so long as the provision or assistance in
- 9 receipt or provision of the services was in accordance
- 10 with the laws of this State or would have been in
- 11 accordance with the laws of this State if it occurred
- 12 within this State; or
- 13 (6) Other just and sufficient cause that renders a person
- 14 unfit to practice marriage and family therapy."

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

17 "[†]§451J-12[†] **Confidentiality and privileged**  
 18 **communications.** No person licensed as a marriage and family  
 19 therapist, nor any of the person's employees or associates,  
 20 shall be required to disclose any information that the person



1 may have acquired in rendering marriage and family therapy  
2 services except in the following circumstances:

- 3 (1) As required by law;
- 4 (2) To prevent a clear and immediate danger to a person or  
5 persons;
- 6 (3) In the course of a civil, criminal, or disciplinary  
7 action arising from the therapy where the therapist is  
8 a defendant~~[+]~~, except when the civil, criminal, or  
9 disciplinary action by another state or federal agency  
10 is based on the provision or assistance in receipt or  
11 provision of gender-affirming health care services, as  
12 defined in section 323J-1, so long as the provision or  
13 assistance in receipt or provision of the services was  
14 in accordance with the laws of this State or would  
15 have been in accordance with the laws of this State if  
16 it occurred within this State;
- 17 (4) In a criminal proceeding where the client is a  
18 defendant and the use of the privilege would violate  
19 the defendant's right to a compulsory process of the  
20 right to present testimony and witnesses in the  
21 defendant's own behalf;



- 1 (5) In accordance with the terms of a client's previously  
2 written waiver of the privilege; or
- 3 (6) Where more than one person in a family jointly  
4 receives therapy and each [~~family member~~] person who  
5 is legally competent executes a written waiver[~~+~~in].  
6 In that instance, a therapist may disclose information  
7 received from any [~~family member~~] person in accordance  
8 with the terms of [~~the~~] that person's waiver."

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

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

- 17 (1) Procuring, or aiding or abetting in procuring, an  
18 abortion that is unlawful under the laws of this State  
19 or that would be unlawful under the laws of this State  
20 if performed within this State;



- 1           (2)   Employing any person to solicit patients for one's  
2                    self;
- 3           (3)   Engaging in false, fraudulent, or deceptive  
4                    advertising, including but not limited to:
  - 5                    (A)   Making excessive claims of expertise in one or  
6                            more medical specialty fields;
  - 7                    (B)   Assuring a permanent cure for an incurable  
8                            disease; or
  - 9                    (C)   Making any untruthful and improbable statement in  
10                            advertising one's medical or surgical practice or  
11                            business;
- 12          (4)   Being habituated to the excessive use of drugs or  
13                    alcohol; or being addicted to, dependent on, or a  
14                    habitual user of a narcotic, barbiturate, amphetamine,  
15                    hallucinogen, or other drug having similar effects;
- 16          (5)   Practicing medicine while the ability to practice is  
17                    impaired by alcohol, drugs, physical disability, or  
18                    mental instability;
- 19          (6)   Procuring a license through fraud, misrepresentation,  
20                    or deceit, or knowingly permitting an unlicensed  
21                    person to perform activities requiring a license;



- 1           (7) Professional misconduct, hazardous negligence causing
- 2           bodily injury to another, or manifest incapacity in
- 3           the practice of medicine or surgery;
- 4           (8) Incompetence or multiple instances of negligence,
- 5           including but not limited to the consistent use of
- 6           medical service, which is inappropriate or
- 7           unnecessary;
- 8           (9) Conduct or practice contrary to recognized standards
- 9           of ethics of the medical profession as adopted by the
- 10          Hawaii Medical Association, the American Medical
- 11          Association, the Hawaii Association of Osteopathic
- 12          Physicians and Surgeons, or the American Osteopathic
- 13          Association;
- 14          (10) Violation of the conditions or limitations upon which
- 15          a limited or temporary license is issued;
- 16          (11) Revocation, suspension, or other disciplinary action
- 17          by another state or federal agency of a license,
- 18          certificate, or medical privilege, except when the
- 19          revocation, suspension, or other disciplinary action
- 20          was based on the provision or assistance in receipt or
- 21          provision of [medical]:



1           (A) Medical, surgical, pharmaceutical, counseling, or  
2           referral services relating to the human  
3           reproductive system, including but not limited to  
4           services relating to pregnancy, contraception, or  
5           the termination of a pregnancy~~[7]~~; or

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

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

20          (A) Medical, surgical, pharmaceutical, counseling, or  
21          referral services relating to the human



- 1 reproductive system, including but not limited to  
2 services relating to pregnancy, contraception, or  
3 the termination of a pregnancy~~[7]~~; or  
4 (B) Gender-affirming health care services, as defined  
5 in section 323J-1,  
6 so long as the provision or assistance in receipt or  
7 provision of the services was in accordance with the  
8 laws of this State or would have been in accordance  
9 with the laws of this State if it occurred within this  
10 State;
- 11 (13) Violation of chapter 329, the uniform controlled  
12 substances act, or any rule adopted thereunder except  
13 as provided in section 329-122;
- 14 (14) Failure to report to the board, in writing, any  
15 disciplinary decision issued against the licensee or  
16 the applicant in another jurisdiction within thirty  
17 days after the disciplinary decision is issued; or
- 18 (15) Submitting to or filing with the board any notice,  
19 statement, or other document required under this  
20 chapter~~[7-which]~~ that is false or untrue or contains  
21 any material misstatement or omission of fact.



1 (b) If disciplinary action related to the practice of  
2 medicine has been taken against the applicant by another state  
3 or federal agency, or if the applicant reveals a physical or  
4 mental condition that would constitute a violation under this  
5 section, then the board may impose one or more of the following  
6 requirements as a condition for licensure:

- 7 (1) Physical and mental evaluation of the applicant by a  
8 licensed physician or osteopathic physician approved  
9 by the board;
- 10 (2) Probation, including conditions of probation as  
11 requiring observation of the licensee by an  
12 appropriate group or society of licensed physicians,  
13 osteopathic physicians, or surgeons;
- 14 (3) Limitation of the license by restricting the fields of  
15 practice in which the licensee may engage;
- 16 (4) Further education or training or proof of performance  
17 competency; and
- 18 (5) Limitation of the medical practice of the licensee in  
19 any reasonable manner to assure the safety and welfare  
20 of the consuming public;



1 provided that the board shall not impose as a condition for  
2 licensure any of the requirements pursuant to this subsection if  
3 the disciplinary action related to the practice of medicine  
4 taken against the applicant was based on the provision or  
5 assistance in receipt or provision of medical, surgical,  
6 pharmaceutical, counseling, or referral services relating to the  
7 human reproductive system, including but not limited to services  
8 relating to pregnancy, contraception, or the termination of a  
9 pregnancy, or the provision or assistance in receipt or  
10 provision of gender-affirming health care services, as defined  
11 in section 323J-1, so long as the provision or assistance in  
12 receipt or provision of the services was in accordance with the  
13 laws of this State or would have been in accordance with the  
14 laws of this State if it occurred within this State.

15 (c) Notwithstanding any other law to the contrary, the  
16 board may deny a license to any applicant who has been  
17 disciplined by another state or federal agency, except on the  
18 basis of discipline for the provision or assistance in receipt  
19 or provision of medical, surgical, pharmaceutical, counseling,  
20 or referral services relating to the human reproductive system,  
21 including but not limited to services relating to pregnancy,



1 contraception, or the termination of a pregnancy, or the  
2 provision or assistance in receipt or provision of gender-  
3 affirming health care services, as defined in section 323J-1, so  
4 long as the provision or assistance in receipt or provision of  
5 the services was in accordance with the laws of this State or  
6 would have been in accordance with the laws of this State if it  
7 occurred within this State. Any final order of discipline taken  
8 pursuant to this subsection shall be a matter of public record."

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

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

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

20 (B) Gender-affirming health care services, as defined  
21 in 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 by another state prohibits the  
7           licensee from practicing in that state."

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

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

15           (1) Failing to meet or maintain the conditions and  
16           requirements necessary to qualify for the granting of  
17           a license;

18           (2) Engaging in false, fraudulent, or deceptive  
19           advertising, or making untruthful or improbable  
20           statements;



- 1 (3) Being addicted to, dependent on, or a habitual user of  
2 a narcotic, barbiturate, amphetamine, hallucinogen,  
3 opium, cocaine, or other drugs or derivatives of a  
4 similar nature;
- 5 (4) Practicing the licensed profession while impaired by  
6 alcohol, drugs, physical disability, or mental  
7 instability;
- 8 (5) Procuring a license through fraud, misrepresentation,  
9 or deceit;
- 10 (6) Aiding and abetting an unlicensed person to directly  
11 or indirectly perform activities requiring a license;
- 12 (7) Professional misconduct, incompetence, gross  
13 negligence, or manifest incapacity, in the practice of  
14 the licensed profession;
- 15 (8) Engaging in conduct or practice contrary to recognized  
16 standards of ethics for the licensed profession;
- 17 (9) Violating any condition or limitation upon which a  
18 conditional or temporary license was issued;
- 19 (10) Engaging in business under a past or present license  
20 issued pursuant to the licensing laws, in a manner  
21 causing injury to one or more members of the public;



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



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

8           (14) Failing to report in writing to the director any  
 9           disciplinary decision issued against the licensee or  
 10          applicant in another jurisdiction within thirty days  
 11          of the disciplinary decision;

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

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

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

19                 "~~§~~453D-13~~§~~ **Confidentiality and privileged**  
 20 **communications.** No person licensed as a mental health  
 21 counselor, nor any of the person's employees or associates,



1 shall be required to disclose any information that the person  
2 may have acquired in rendering mental health counseling  
3 services, except in the following circumstances:

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



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

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

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

- 15           (1) Fraud or deceit in procuring or attempting to procure  
16           a license to practice nursing as a registered nurse or  
17           as a licensed practical nurse;
- 18           (2) Gross immorality;
- 19           (3) Unfitness or incompetence by reason of negligence,  
20           habits, or other causes;



- 1           (4) Habitual intemperance, addiction to, or dependency on
- 2           alcohol or other habit-forming substances;
- 3           (5) Mental incompetence;
- 4           (6) Unprofessional conduct as defined by the board in
- 5           accordance with its own rules;
- 6           (7) Wilful or repeated violation of any of the provisions
- 7           of this chapter or any rule adopted by the board;
- 8           (8) Revocation, suspension, limitation, or other
- 9           disciplinary action by another state of a nursing
- 10          license, except when the revocation, suspension,
- 11          limitation, or other disciplinary action by another
- 12          state was based on the provision or assistance in
- 13          receipt or provision of [~~medical~~]:
- 14          (A) Medical, surgical, pharmaceutical, counseling, or
- 15          referral services relating to the human
- 16          reproductive system, including but not limited to
- 17          services relating to pregnancy, contraception, or
- 18          the termination of a pregnancy[~~7~~]; or
- 19          (B) Gender-affirming health care services, as defined
- 20          in 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 (9) Conviction, whether by nolo contendere or otherwise,  
 7 of a penal offense substantially related to the  
 8 qualifications, functions, or duties of a nurse,  
 9 notwithstanding any statutory provision to the  
 10 contrary, except when the conviction 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 in 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;

4 (10) Failure to report to the board any disciplinary action  
5 taken against the licensee in another jurisdiction  
6 within thirty days after the disciplinary action  
7 becomes final;

8 (11) Submitting to or filing with the board any notice,  
9 statement, or other document required under this  
10 chapter[~~, which~~] that is false or untrue or contains  
11 any material misstatement of fact, including a false  
12 attestation of compliance with continuing competency  
13 requirements; or

14 (12) Violation of the conditions or limitations upon which  
15 any license is issued.

16 (b) Notwithstanding any other law to the contrary, the  
17 board may deny a license to any applicant who has been  
18 disciplined by another state, except on the basis of discipline  
19 by another state for the provision or assistance in receipt or  
20 provision of [~~medical~~]:



1       (1) Medical, surgical, pharmaceutical, counseling, or  
2           referral services relating to the human reproductive  
3           system, including but not limited to services relating  
4           to pregnancy, contraception, or the termination of a  
5           pregnancy~~[7]~~; or

6       (2) Gender-affirming health care services, as defined in  
7           section 323J-1,

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

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

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

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



- 1           (1) The board shall serve the licensee with a proposed  
2           order imposing disciplinary action as required by  
3           chapter 91;
- 4           (2) The licensee shall have the right to request a hearing  
5           pursuant to chapter 91 to show cause why the action  
6           described in the proposed order should not be imposed;
- 7           (3) Any request for a hearing shall be made in writing and  
8           filed with the board within twenty days after mailing  
9           of the proposed order to the licensee; and
- 10          (4) If the licensee does not submit a written request for  
11          a hearing within twenty days after mailing of the  
12          proposed order, the board shall issue a final order  
13          imposing the disciplinary action described in the  
14          proposed order;
- 15 provided that the board shall not issue an order imposing  
16 disciplinary action upon the licensee if the revocation,  
17 suspension, or other disciplinary action against a licensee by  
18 another state was based on the provision or assistance in  
19 receipt or provision of medical, surgical, pharmaceutical,  
20 counseling, or referral services relating to the human  
21 reproductive system, including but not limited to services



1 relating to pregnancy, contraception, or the termination of a  
2 pregnancy, or the provision or assistance in receipt or  
3 provision of gender-affirming health care services, as defined  
4 in section 323J-1, so long as the provision or assistance in  
5 receipt or provision of the services was in accordance with the  
6 laws of this State or would have been in accordance with the  
7 laws of this State if it occurred within this State."

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

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

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

18 (A) Medical, surgical, pharmaceutical, counseling, or  
19 referral services relating to the human  
20 reproductive system, including but not limited to



1 services relating to pregnancy, contraception, or  
2 the termination of a pregnancy[~~7~~]; or

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

5 so long as the provision or assistance in receipt or  
6 provision of the services was in accordance with the  
7 laws of this State or would have been in accordance  
8 with the laws of this State if it occurred within this  
9 State; and

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

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

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

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



- 1           (1) The board shall serve the licensee with a proposed  
2           order imposing disciplinary action as required by  
3           chapter 91;
- 4           (2) The licensee shall have the right to request a hearing  
5           pursuant to chapter 91 to show cause why the action  
6           described in the proposed order should not be imposed;
- 7           (3) Any request for a hearing shall be made in writing and  
8           filed with the board within twenty days after mailing  
9           of the proposed order to the licensee; and
- 10          (4) If the licensee does not submit a written request for  
11          a hearing within twenty days after mailing of the  
12          proposed order, the board shall issue a final order  
13          imposing the disciplinary action described in the  
14          proposed order;
- 15 provided that the board shall not issue an order imposing  
16 disciplinary action upon the licensee if the revocation,  
17 suspension, or other disciplinary action against a licensee by  
18 another state was based on the provision or assistance in  
19 receipt or provision of medical, surgical, pharmaceutical,  
20 counseling, or referral services relating to the human  
21 reproductive system, including but not limited to services



1 relating to pregnancy, contraception, or the termination of a  
 2 pregnancy, or the provision or assistance in receipt or  
 3 provision of gender-affirming health care services, as defined  
 4 in section 323J-1, so long as the provision or assistance in  
 5 receipt or provision of the services was in accordance with the  
 6 laws of this State or would have been in accordance with the  
 7 laws of this State if it occurred within this State."

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

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

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

18 (A) Medical, surgical, pharmaceutical, counseling, or  
 19 referral services relating to the human  
 20 reproductive system, including but not limited to



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

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

5 so long as the provision or assistance in receipt or  
6 provision of the services was in accordance with the  
7 laws of this State or would have been in accordance  
8 with the laws of this State if it occurred within this  
9 State; and

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

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

14 "(a) In addition to any other actions authorized by law,  
15 the board shall refuse to grant a license to any applicant and  
16 may revoke or suspend any license, or may place a license or  
17 ~~may~~ put a license holder on conditional probation, for any  
18 cause authorized by law, including but not limited to the  
19 following:



- 1       (1) Professional misconduct, gross carelessness, manifest  
2           incapacity, or incompetency in the practice of  
3           psychology;
- 4       (2) Violation of this chapter by the applicant within one  
5           year of the application, or violation of this chapter  
6           by a license holder any time the license is valid;
- 7       (3) Any unethical practice of psychology as defined by the  
8           board in accordance with its own rules;
- 9       (4) Fraud or deception in applying for or procuring a  
10           license to practice psychology as defined in section  
11           465-1;
- 12      (5) Conviction of a crime substantially related to the  
13           qualifications, functions, or duties of  
14           psychologists[+], except when the conviction was based  
15           on the provision or assistance in receipt or provision  
16           of gender-affirming health care services, as defined  
17           in section 323J-1, so long as the provision or  
18           assistance in receipt or provision of the services was  
19           in accordance with the laws of this State or would  
20           have been in accordance with the laws of this State if  
21           it occurred within this State;



- 1           (6) Wilful unauthorized communication of information  
2                   received in professional confidence;
- 3           (7) The suspension, revocation, or imposition of  
4                   probationary conditions by another state of a license  
5                   or certificate to practice psychology issued by that  
6                   state if the act for which the disciplinary action was  
7                   taken constitutes a violation of this chapter;
- 8           (8) The commission of any dishonest, corrupt, or  
9                   fraudulent act or any act of sexual abuse, or sexual  
10                  relations with a client, or sexual misconduct that is  
11                  substantially related to the qualifications,  
12                  functions, or duties of a psychologist;
- 13          (9) Harassment, intimidation, or abuse, sexual or  
14                  otherwise, of a client or patient;
- 15          (10) Exercising undue influence in the manner as to exploit  
16                  the client, patient, student, or supervisee for  
17                  financial or other personal advantage to the  
18                  practitioner or a third party;
- 19          (11) Conviction of fraud in filing medicaid claims or  
20                  conviction of fraud in filing claims to any third  
21                  party payor, for which a copy of the record of



- 1 conviction, certified by the clerk of the court  
2 entering the conviction, shall be conclusive evidence;
- 3 (12) Aiding or abetting any unlicensed person to engage in  
4 the practice of psychology;
- 5 (13) Repeated acts of excessive treatment or use of  
6 diagnostic procedures as determined by the standard of  
7 the local community of licensees;
- 8 (14) Inability to practice psychology with reasonable skill  
9 and safety to patients or clients by reason of  
10 illness, inebriation, or excessive use of any  
11 substance, or as a result of any mental or physical  
12 condition;
- 13 (15) Conviction of any crime or offense that reflects the  
14 inability of the practitioner to practice psychology  
15 with due regard for the health and safety of clients  
16 or patients;
- 17 (16) Use of untruthful or deceptive or improbable  
18 statements concerning the licensee's qualifications or  
19 the effects or results of proposed treatment;



- 1 (17) Functioning outside of the licensee's professional
- 2 competence established by education, training, and
- 3 experience;
- 4 (18) Refusal to comply with any written order of the board;
- 5 (19) Making any fraudulent or untrue statement to the
- 6 board, including a false certification of compliance
- 7 with the continuing education requirement of section
- 8 465-11; or
- 9 (20) Violation of a board rule."

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

13 "Gender-affirming health care services" has the same  
 14 meaning as in section 323J-1."

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

17 "[+]§583A-201[+] **Initial child-custody jurisdiction.** (a)  
 18 Except as otherwise provided in section 583A-204, a court of  
 19 this State [~~has~~] shall have jurisdiction to make an initial  
 20 child-custody determination only if:



- 1           (1) This State is the home state of the child on the date  
2                   of the commencement of the proceeding, or was the home  
3                   state of the child within six months before the  
4                   commencement of the proceeding and the child is absent  
5                   from this State but a parent or person acting as a  
6                   parent continues to live in this State;
- 7           (2) A court of another state does not have jurisdiction  
8                   under paragraph (1), or a court of the home state of  
9                   the child has declined to exercise jurisdiction on the  
10                  ground that this State is the more appropriate forum  
11                  under section 583A-207 or 583A-208, and:
- 12                   (A) The child and the child's parents, or the child  
13                           and at least one parent or a person acting as a  
14                           parent, have a significant connection with this  
15                           State other than mere physical presence; and
- 16                   (B) Substantial evidence is available in this State  
17                           concerning the child's care, protection,  
18                           training, and personal relationships;
- 19           (3) All courts having jurisdiction under paragraph (1) or  
20                   (2) have declined to exercise jurisdiction on the  
21                   ground that a court of this State is the more



1 appropriate forum to determine the custody of the  
2 child under section 583A-207 or 583A-208; or

3 (4) No court of any other state would have jurisdiction  
4 under the criteria specified in paragraph (1), (2), or  
5 (3).

6 (b) Subsection (a) shall be the exclusive jurisdictional  
7 basis for making a child-custody determination by a court of  
8 this State.

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

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

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

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





- 1 (1) Whether domestic violence has occurred and is likely  
2 to continue in the future and which state could best  
3 protect the parties and the child;
- 4 (2) The length of time the child has resided outside this  
5 State;
- 6 (3) The distance between the court in this State and the  
7 court in the state that would assume jurisdiction;
- 8 (4) The relative financial circumstances of the parties;
- 9 (5) Any agreement of the parties as to which state should  
10 assume jurisdiction;
- 11 (6) The nature and location of the evidence required to  
12 resolve the pending litigation, including testimony of  
13 the child;
- 14 (7) The ability of the court of each state to decide the  
15 issue expeditiously and the procedures necessary to  
16 present the evidence;
- 17 (8) The familiarity of the court of each state with the  
18 facts and issues in the pending litigation; and
- 19 (9) The physical and psychological health of the parties.
- 20 (c) If a court of this State determines that it is an  
21 inconvenient forum and that a court of another state is a more



1 appropriate forum, it shall stay the proceedings upon condition  
2 that a child-custody proceeding be promptly commenced in another  
3 designated state and may impose any other condition the court  
4 considers just and proper.

5 (d) A court of this State may decline to exercise its  
6 jurisdiction under this chapter if a child-custody determination  
7 is incidental to an action for divorce or another proceeding,  
8 while still retaining jurisdiction over the divorce or other  
9 proceeding.

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

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

18 "[+]§583A-208[+] **Jurisdiction declined by reason of**  
19 **conduct.** (a) Except as otherwise provided in section 583A-204,  
20 if a court of this State has jurisdiction under this chapter  
21 because a person seeking to invoke its jurisdiction has engaged



1 in unjustifiable conduct, the court shall decline to exercise  
2 its jurisdiction unless:

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

5 (2) A court of the state otherwise having jurisdiction  
6 under sections 583A-201 to 583A-203 determines that  
7 this State is a more appropriate forum under section  
8 583A-207; or

9 (3) No court of any other state would have jurisdiction  
10 under the criteria specified in sections 583A-201 to  
11 583A-203.

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

18 (c) If a court dismisses a petition or stays a proceeding  
19 because it declines to exercise its jurisdiction pursuant to  
20 subsection (a), it may assess against the party seeking to  
21 invoke its jurisdiction necessary and reasonable expenses



1 including costs, communication expenses, attorney's fees,  
2 investigative fees, expenses for witnesses, travel expenses, and  
3 child care during the course of the proceedings, unless the  
4 party from whom fees are sought is a protective parent fleeing  
5 abuse, or the assessment would be clearly inappropriate. The  
6 court ~~may~~ shall not assess fees, costs, or expenses against  
7 this State unless authorized by law other than this chapter.

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

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

20 "[+]§636C-9[+] **Enforcement of foreign penal civil actions**  
21 **relating to protected reproductive health care services[-] or** or



1 protected gender-affirming health care services. (a) No  
2 judgment or other order arising from a foreign penal civil  
3 action or other penal law banning, restricting, burdening,  
4 punishing, penalizing, or otherwise interfering with the  
5 provision of protected reproductive health care services or  
6 protected gender-affirming health care services shall be  
7 enforced in this State.

8 (b) As used in this section:

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

15 "Gender-affirming health care services" has the same  
16 meaning as in section 323J-1.

17 "Protected gender-affirming health care services" means  
18 gender-affirming health care services that are protected under  
19 the Hawaii State Constitution or are otherwise lawful under the  
20 laws of this State or that would be constitutionally protected  
21 or otherwise lawful if performed within this State.



1 "Protected reproductive health care services" means  
2 medical, surgical, pharmaceutical, counseling, or referral  
3 services relating to the human reproductive system, including  
4 but not limited to services relating to pregnancy,  
5 contraception, or termination of a pregnancy, that are protected  
6 under the Hawaii State Constitution or otherwise lawful under  
7 the laws of this State or that would be constitutionally  
8 protected or otherwise lawful if performed within this State."

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

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



1 in the judicial district in which the person is, the judge shall  
2 fix a time and place for a hearing, and shall make an order  
3 directing the witness to appear at a time and place certain for  
4 the hearing.

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



1 criminal violation of a law of another state involving [~~the~~  
2 ~~provision,~~]:

3       (1) Seeking, receiving, paying for, [~~receipt of, or~~  
4           assistance with] or inquiring about reproductive  
5           health care services [~~as defined in section 323J-1] or~~  
6           gender-affirming health care services;

7       (2) Providing or responding to an inquiry about  
8           reproductive health care services or gender-affirming  
9           health care services;

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

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

17 unless the acts forming the basis of the prosecution or  
18 investigation would also constitute an offense in this State.

19 In any hearing, the certificate shall be prima facie evidence of  
20 all the facts stated therein.



1        (c) If the certificate recommends that the witness be  
2 taken into immediate custody and delivered to an officer of the  
3 requesting state to assure the witness' attendance in the  
4 requesting state, the judge may, in lieu of notification of the  
5 hearing, direct that the witness be forthwith brought before the  
6 judge for the hearing; and the judge at the hearing being  
7 satisfied of the desirability of the custody and delivery, for  
8 which determination the certificate shall be prima facie proof  
9 of the desirability may, in lieu of issuing subpoena or summons,  
10 order that the witness be forthwith taken into custody and  
11 delivered to an officer of the requesting state.

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



1        (e) As used in this section, "gender-affirming health care  
2 services" and "reproductive health care services" have the same  
3 meanings as in section 323J-1."

4        SECTION 21. If any provision of this Act, or the  
5 application thereof to any person or circumstance, is held  
6 invalid, the invalidity does not affect other provisions or  
7 applications of the Act that can be given effect without the  
8 invalid provision or application, and to this end the provisions  
9 of this Act are severable.

10       SECTION 22. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12       SECTION 23. This Act shall take effect upon its approval;  
13 provided that the amendments made to section 451J-12, Hawaii  
14 Revised Statutes, by section 5 of this Act and section 453D-13,  
15 Hawaii Revised Statutes, by section 9 of this Act shall not be  
16 repealed when the amendments made to those sections by sections  
17 9 and 18, respectively, of Act 93, Session Laws of Hawaii 2024,  
18 take effect on July 1, 2026.

19

INTRODUCED BY:

  
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JAN 17 2025



# H.B. NO. 615

**Report Title:**

Gender-Affirming Health Care Services; Protections; Child Custody

**Description:**

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.

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

