

SENATE BILL 119

E2, J2, J1

(PRE-FILED)

4lr0422
CF 4lr0716

By: **Senators Lam, Hettleman, and Waldstreicher**

Requested: July 10, 2023

Introduced and read first time: January 10, 2024

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Legally Protected Health Care – Gender-Affirming Treatment**

3 FOR the purpose of altering the definition of “legally protected health care” to include
4 certain gender-affirming treatment, including medications and supplies, for the
5 purposes of certain provisions of law that prohibit health occupations disciplinary
6 actions and certain actions in criminal and civil proceedings and the use of certain
7 resources in furtherance of certain investigations and proceedings related to legally
8 protected health care; and generally relating to legally protected health care.

9 BY repealing and reenacting, without amendments,
10 Article – Courts and Judicial Proceedings
11 Section 9–302(b)(2), 9–402(a), 10–408(c)(5), and 11–802(a)
12 Annotated Code of Maryland
13 (2020 Replacement Volume and 2023 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Criminal Procedure
16 Section 9–106(b)
17 Annotated Code of Maryland
18 (2018 Replacement Volume and 2023 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Health – General
21 Section 15–151(a)
22 Annotated Code of Maryland
23 (2023 Replacement Volume)

24 BY repealing and reenacting, without amendments,
25 Article – Health Occupations
26 Section 1–227

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 2–312
Annotated Code of Maryland
(2015 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

9–302.

(b) (2) (i) In this paragraph, “legally protected health care” has the
meaning stated in § 2–312 of the State Personnel and Pensions Article.

(ii) A judge may not order a person within the State to give testimony
or a statement, or produce documents, electronically stored information, or other tangible
things under this subsection, in a case where prosecution is pending, or where a grand jury
investigation has commenced or is about to commence, for a violation of a criminal law of
another state involving the provision of, receipt of, or assistance with legally protected
health care in the State, unless the acts forming the basis of the prosecution or investigation
would constitute a crime in this State.

9–402.

(a) (1) In this subsection, “legally protected health care” has the meaning
stated in § 2–312 of the State Personnel and Pensions Article.

(2) (i) To request issuance of a subpoena under this section, a party
shall submit a foreign subpoena to a clerk of the circuit court for the county in which
discovery is sought to be conducted in this State.

(ii) The request under subparagraph (i) of this paragraph shall
include a sworn, written statement signed under penalty of perjury by the party seeking
enforcement, or the party’s counsel, that no portion of the subpoena is intended or
anticipated to further any investigation or proceeding related to legally protected health
care, unless the out-of-state proceeding is:

1. Based in tort, contract, or statute;
2. A claim for which a similar or equivalent claim would exist
in the State; and

1 3. A. Brought by the patient who received legally
2 protected health care, or the patient's legal representative; or

3 B. Based on conduct that would be prohibited under the laws
4 of this State.

5 (3) A request for the issuance of a subpoena under this subtitle does not
6 constitute an appearance in the courts of this State.

7 10–408.

8 (c) (5) (i) In this paragraph, “legally protected health care” has the
9 meaning stated in § 2–312 of the State Personnel and Pensions Article.

10 (ii) A judge may not issue an ex parte order under this section for
11 the purpose of investigating or recovering evidence of actions related to legally protected
12 health care, unless the acts forming the basis for the investigation or recovery of evidence
13 would constitute a crime in this State.

14 11–802.

15 (a) (1) In this subsection, “legally protected health care” has the meaning
16 stated under § 2–312 of the State Personnel and Pensions Article.

17 (2) (i) Except as provided in subparagraphs (ii), (iii), and (iv) of this
18 paragraph, a copy of any foreign judgment authenticated in accordance with an act of
19 Congress or statutes of this State may be filed in the office of the clerk of a circuit court.

20 (ii) If the face amount of the judgment is \$2,500 or less, the copy
21 shall be filed with the clerk of the District Court.

22 (iii) If the face amount of the judgment is not more than a
23 jurisdictional amount described in § 4–401 of this article, but more than \$2,500, the copy
24 may be filed either with the clerk of the District Court or in the office of the clerk of a circuit
25 court.

26 (iv) Except as required by federal law, a judgment creditor may not
27 file a copy of any foreign judgment under this section if the judgment was issued in
28 connection with any litigation concerning legally protected health care, unless the
29 underlying cause of action is:

30 1. Based in tort, contract, or statute;

31 2. A claim for which a similar or equivalent claim would exist
32 in the State; and

33 3. A. Brought by the patient who received legally

protected health care, or the patient's legal representative; or

B. Based on conduct that would be prohibited under the laws of this State.

(3) The clerk shall treat the foreign judgment in the same manner as a judgment of the court in which the foreign judgment is filed.

Article – Criminal Procedure

9–106.

(b) (1) In this subsection, “legally protected health care services” has the meaning stated in § 2–312 of the State Personnel and Pensions Article.

(2) Unless compelled by a writ of mandamus issued by a federal court, the Governor may not surrender a person on demand of the executive authority of any other state if the alleged act for which surrender is being demanded relates to providing, procuring, or aiding another in providing or procuring legally protected health care services and the act would not be a crime in the State.

Article – Health – General

15–151.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Gender-affirming treatment” means any medically necessary treatment consistent with current clinical standards of care prescribed by a licensed health care provider for the treatment of a condition related to the individual's gender identity.

(ii) “Gender-affirming treatment” includes:

1. Hormone therapy, hormone blockers, and puberty blockers;
2. Hair alteration for the purposes of altering secondary sex characteristics and surgical site preparation;
3. Alterations to voice, voice therapy, and voice lessons;
4. Alterations to abdomen, chest, trunk, and buttocks;
5. Alterations to the face and neck;
6. Alterations to the genitals and gonads;

1 7. Laser treatment for scars from gender-affirming
2 treatment;

3 8. Standard fertility preservation procedures, as set forth in
4 § 15–810.1 of the Insurance Article;

5 9. Revisions to previous treatments and reversal of
6 treatments;

7 10. Combinations of gender-affirming procedures; and

8 11. Other treatments as prescribed to suppress the
9 development of endogenous secondary sex characteristics, align the individual's
10 appearance or physical body with gender identity, and alleviate symptoms of clinically
11 significant distress resulting from gender dysphoria.

12 (iii) “Gender-affirming treatment” may include treatment described
13 in the current clinical standards of care for gender-affirming treatment published by the
14 World Professional Association for Transgender Health.

15 (3) “Gender identity” has the meaning stated in § 20–101 of the State
16 Government Article.

17 Article – Health Occupations

18 1–227.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) “Health care practitioner” means an individual who is licensed,
21 certified, or otherwise authorized by law to provide health care services under this article.

22 (3) “Legally protected health care” has the meaning stated in § 2–312 of
23 the State Personnel and Pensions Article.

24 (b) A health occupations board may not revoke, suspend, discipline, take an
25 adverse action against, or refuse to issue or renew a license, certification, or other
26 authorization to practice for any health care practitioner in whole or in part because of the
27 provision or support of the provision of legally protected health care if the legally protected
28 health care was provided in accordance with the standard of care as determined by the
29 relevant health occupations board established under this article and in accordance with the
30 laws of this State.

31 (c) A health occupations board may not revoke, suspend, discipline, take an
32 adverse action against, or refuse to issue or renew a license, certification, or other
33 authorization to practice for any health care practitioner if the health care practitioner is
34 disciplined by a licensure board in another state in whole or in part because of the provision

or support of the provision of legally protected health care if the legally protected health care was provided in accordance with the standard of care as determined by the relevant health occupations board established under this article and in accordance with the laws of this State.

Article – State Personnel and Pensions

2–312.

(a) **(1)** In this section[, “legally”] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) “GENDER-AFFIRMING TREATMENT” HAS THE MEANING STATED IN § 15–151 OF THE HEALTH – GENERAL ARTICLE.

(3) “LEGALLY protected health care” means:

(I) all reproductive health services, medications, and supplies related to the direct provision or support of the provision of care related to pregnancy, contraception, assisted reproduction, and abortion that is lawful in the State; **OR**

(II) ALL GENDER-AFFIRMING TREATMENT, INCLUDING MEDICATIONS AND SUPPLIES, RELATED TO THE DIRECT PROVISION OR SUPPORT OF THE PROVISION OF CARE RELATED TO GENDER-AFFIRMING TREATMENT THAT IS LAWFUL IN THE STATE.

(b) This section does not apply to an interstate investigation or proceeding described under subsection (c) of this section if:

(1) the interstate investigation or proceeding concerns conduct that would be subject to civil liability, criminal liability, or administrative sanction if committed in the State; or

(2) the subject of the interstate investigation or proceeding submits a written request to provide information or assistance to the investigation or proceeding.

(c) An agency of the State or a political subdivision of the State, an agent or employee of the State or a political subdivision of the State acting in the agent’s or employee’s official capacity, or a private party providing services on behalf of the State or a political subdivision of the State, may not provide information, expend time or money, or use State facilities, State property, State equipment, State personnel, or other State resources in furtherance of any interstate investigation or proceeding seeking to impose civil or criminal liability on, or administrative sanction against, a person for any activity relating to legally protected health care if the activity would not be subject to civil or criminal liability or professional sanction in the State.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2024.