

Memorandum of Support

June 7, 2024

S. 7506-A
A. 7687-A

By: Senator Hoylman-Sigal
By: M. of A. Bronson
Senate: Passed
Assembly: Judiciary
Effective Date: Immediately

AN ACT to amend the family court act, the domestic relations law, the criminal procedure law, the executive law, the civil practice law and rules, the education law and the insurance law, in relation to gender-affirming care.

LAW & SECTIONS REFERRED TO: Subdivision 1 of Section 659 of the family court act; Section 76 of the domestic relations law

The New York State Bar Association’s Family Law Section strongly supports S.7506-A / A.7687-A.

Across the country, states are banning and criminalizing the providing of gender-affirming care to minors. As of April 2024, an estimated 113,900 transgender youth live in states that have banned or limited gender-affirming care by law or executive action.¹ This number has significantly increased from just last year when 77,900 transgender youth lived in states that banned or limited gender-affirming care as of March 2023.² Another 123,600 transgender youth live in states where legislation imposing similar bans is pending.³ Among the bans adopted and imposed are the following:

- In 2023 Indiana adopted legislation banning, without exception, gender transition procedures for all minors⁴ and despite its own Court of Appeals having ruled in 2022 that a categorical parental refusal to consider the necessity of gender-affirming care, in some cases, “substantially endangers” a child’s health and needs, care, and treatment.⁵
- In 2022, Texas’s Attorney General opined that gender-affirming prescriptions or procedures provided to minors are child abuse⁶ and the Governor directed the Texas Department of Family and Protective Services to investigate parents of transgender

¹ <https://williamsinstitute.law.ucla.edu/publications/2024-anti-trans-legislation/>

² <https://williamsinstitute.law.ucla.edu/press/trans-youth-bans-press-release/>

³ <https://williamsinstitute.law.ucla.edu/publications/2024-anti-trans-legislation/>

⁴ <https://iga.in.gov/legislative/2023/bills/senate/480#document-c139e764>

⁵ <https://caseclips.courts.in.gov/2022/10/24/in-re-a-c-no-22a-jc-49--n-e-3d--ind-ct-app-oct-21-2022/>

⁶ <https://texasattorneygeneral.gov/sites/default/files/global/KP-0401.pdf>

Opinions expressed are those of the Section/Committee preparing this memorandum and do not represent those of the New York State Bar Association unless and until they have been adopted by its House of Delegates or Executive Committee.

children for providing such care regardless of whether it was provided under the supervision of medical professionals.⁷

- Florida has adopted legislation giving it emergency temporary subject matter jurisdiction over any custody disputes involving a child “subjected to” or “threatened with being subjected to” gender-affirming prescriptions or procedures,⁸ thereby restricting litigation to Florida regardless of existing interstate compacts regarding subject matter jurisdiction, and precluding consideration of the necessity of a child receiving care regardless of the child’s health, safety, and best interests.

Numerous medical groups, including the American Medical Association, the American Academy of Pediatrics, the American Psychiatric Association, and the American Psychological Association endorse gender-affirming care for transgender youth. These endorsements are based on a substantial body of peer-reviewed research showing that access to gender-affirming care for transgender youth reduces the risks for depression, psychological distress, and suicidal ideation, all of which occur in transgender youth and adults at vastly higher rates than among cisgender individuals, and substantially higher rates than lesbian, gay, or bisexual individuals. Transgender young people already face extreme barriers when it comes to getting the care they need, from stigma, discrimination, systemic hurdles, and lack of insurance coverage for care. Prohibiting without exception and criminalizing the providing of gender-affirming care by guardians and physicians substantially increases the likelihood of such harm occurring to transgender youth.

This legislation will protect and preserve the rights of transgender youth, and their guardians, to due process of law regarding the necessity and availability of such care when parents are unable to agree upon such decisions. It will also provide a jurisdiction safe for transgender children and families whose rights are under attack nationwide by:

1. Allowing New York courts to hear cases where a family with a transgender child has moved to New York or fled to New York,
2. Protecting the health information of people who come to New York to receive gender-affirming care, and
3. Extending the existing Shield Law’s licensure protections to therapists and other providers who provide gender-affirming care in New York.

For the above reasons, NYSBA’s Family and the Law Section SUPPORTS this legislation.

⁷ <https://gov.texas.gov/uploads/files/press/O-MastersJaime202202221358.pdf>

⁸ <https://www.flsenate.gov/Session/Bill/2023/254/BillText/er/HTML>