



SPONSOR: Rep. Neal & Sen. Gay & Rep. Baumbach &
Rep. Morrison
Reps. Romer, Heffernan, Minor-Brown

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 346

AN ACT TO AMEND TITLES 10 AND 24 OF THE DELAWARE CODE RELATING TO GENDER-AFFIRMING HEALTH CARE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 1702, Title 24 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows and by redesignating accordingly:

3 § 1702. Definitions.

4 The following definitions apply to this chapter unless otherwise expressly stated or implied by the context:

5 () “Gender-affirming health care” means medically necessary health care or mental health care that respects
6 the gender identity of the patient, as experienced and defined by the patient, and that may include any of the following:

7 a. Interventions to suppress the development of endogenous secondary sex characteristics.

8 b. Interventions to align the patient’s appearance or physical body with the patient’s gender identity.

9 c. Interventions to alleviate the patient’s symptoms of clinically significant distress resulting from gender
10 incongruence as defined by the International Classification of Diseases maintained by the World Health
11 Organization.

12 d. Developmentally appropriate services, as decided in collaboration between the patient, their clinical
13 team, and current best practices recommended by the World Professional Association for Transgender Health,
14 including:

15 1. Treatment that provides exploration and integration of the patient’s gender identity.

16 2. Treatment to reduce the patient’s distress and develop adaptive coping skills.

17 3. Services or treatment to increase family acceptance of the patient’s gender identity.

18 (15) “Reproductive health services” includes all of the following:

19 a. “Abortion” as defined in § 1782 of this title.

20 b. “Termination of pregnancy” as authorized in § 1790 of this title.

21 c. Emergency contraception that is approved by the Federal Drug Administration and available over-the-
22 counter, with a prescription, or dispensed consistent with the requirements of Chapter 25 of this title.

23 d. Services relating to pregnancy or the termination of pregnancy including medical, surgical, counseling,
24 or referral services.

25 e. Services relating to gender-affirming health care including medical, surgical, counseling, or referral
26 services.

27 Section 2. Amend § 3928, Title 10 of the Delaware Code by making deletions as shown by strike through and
28 insertions as shown by underline as follows:

29 § 3928. Limitations and protections against actions relating to the termination of ~~pregnancy~~. pregnancy and
30 gender-affirming health care.

31 (a) A law of another state that authorizes a person to bring a civil action against a person that does any of the
32 following is contrary to the public policy of this State:

33 (1) Terminates or seeks to terminate a pregnancy.

34 (2) Performs or induces the termination of pregnancy.

35 (3) Knowingly engages in conduct that aids or abets the performance or inducement of the termination of
36 pregnancy.

37 (4) Attempts or intends to engage in the conduct described in paragraphs (a)(1) through (3) of this section.

38 (5) Provides medical, surgical, counseling, or referral services relating to gender-affirming health care as
39 defined by § 1702 of Title 24.

40 (6) Attempts or intends to engage in the conduct described in paragraph (a)(5) of this section.

41 (b) The State shall not do any of the following:

42 (1) Apply any law described in subsection (a) of this section to any case or controversy heard in any court.

43 (2) Issue a summons in a case where prosecution is pending, or where a grand jury investigation has
44 commenced, or is about to commence, for a criminal violation of a law described in subsection (a) of this section
45 unless the acts forming the basis of the prosecution or investigation would constitute a crime in this State.

46 (3) Issue or enforce a subpoena for information or testimony issued by another state or government relating to
47 a civil action described in subsection (a) of this section.

SYNOPSIS

This Act updates House Bill 455 from the 151st General Assembly by providing the same legal protections afforded providers of contraceptive and abortion services to providers of gender-affirming health care.

In summary, this Act does the following:

(1) Clarifies that medical professionals who provide gender-affirming health care cannot be disciplined for such services even if such services are illegal or considered to be unprofessional conduct or the unauthorized practice of medicine in another state, so long as such services are lawful in this State;

(2) Prohibits health care providers from disclosing communications and records concerning gender-affirming health care without the patient's authorization in any civil action or proceeding, with some exceptions;

(3) Protects health care providers from out-of-state civil actions relating to gender-affirming health care treatment that is legal in Delaware, including the issuance of a summons or the enforcement of subpoenas relating to such cases;

(4) Creates a cause of action for recouperation of out-of-state judgments relating to gender-affirming services that are lawful in Delaware; and

(5) Prohibits insurance companies from taking any adverse action against health care professionals who provide gender-affirming health care services.