

Illinois

Shield Law Fact Sheet

AUGUST 2024

For both reproductive and gender-affirming care, Illinois’s shield laws provide protections against out-of-state investigations and prosecutions, professional discipline, and civil liability. Additionally, Illinois’s shield laws provide protections for health care providers’ professional liability insurance and for medical information and other data related to reproductive and gender-affirming care.

PROTECTION AGAINST OUT-OF-STATE INVESTIGATIONS AND PROSECUTIONS

Protection Barring State Agency/Employee Assistance

State agencies and individuals acting on their behalf may not provide any information or use any resources to assist any individual or out-of-state entity seeking to impose civil or criminal liability upon a person or entity for “lawful health care activity”—seeking, providing, receiving, assisting, providing material support for, or traveling to obtain healthcare lawful in Illinois, including reproductive and gender-affirming health care.¹

Protection against Extradition and Arrests

The Governor may not surrender a person charged in another state based on conduct involving seeking, providing, receiving, assisting, providing material support for, or traveling to obtain healthcare lawful in Illinois, including reproductive and gender-affirming health care.²

Protection against Issuance of Search Warrants, Subpoenas, and Witness Summons

Courts may not issue out-of-state subpoenas requesting information or documents related to “lawful health care activity” or subpoenas relating to another state’s laws that would interfere with a

¹ HB 5239 (Ill. 2024) (735 Ill. Comp. Stat. § 40/28-11).

² HB 4664 (Ill. 2023) (725 Ill. Comp. Stat. § 225/6).

person's right to make their own decisions about their reproductive health, pregnancy, or abortion.³ Additionally, summons, subpoenas, or orders for a witness to provide information or testimony may not be issued in a proceeding if the charged conduct involves "lawful health care activity."⁴

PROTECTION FROM PROFESSIONAL DISCIPLINE

Protection against Adverse Actions related to Providers' Licenses and Other Board Discipline

The departments governing the licenses and permits to practice of physicians, nurses, pharmacists, behavior analysts, clinical psychologists, clinical social workers, family therapists, clinical counselors, surgical assistants and technologists, and genetic counselors may not revoke, suspend, place on probation, reprimand, refuse to issue or renew, or take any other action based solely on the providers' provision or participation in health care lawful in Illinois regardless of whether the patient was a resident of another state and regardless of whether that health care service violated another state's laws.⁵

Protection against Denial or Restriction of Facility Privileges

Health care institutions may not take any adverse action against a person, including restricting or terminating their clinical privileges, because of another state's action based on the person's provision of or participation in health care services lawful in Illinois.⁶ Similarly, pharmacies may not take any adverse action, including disciplining or terminating pharmacists or pharmacist technicians, because of another state's action based on the person's provision of or participation in health care services lawful in Illinois.⁷

PROTECTION AGAINST CIVIL LIABILITY

Protection against Application or Enforcement of Another State's Laws or Judgments in Illinois State Court

Courts must apply Illinois law to any case or controversy related to "lawful health care activity."⁸ Courts may not give any force or effect to another state's judgment related to reproductive and gender-affirming health care lawful in Illinois if it was issued without jurisdiction.⁹

³ HB 4664 (Ill. 2023) (735 Ill. Comp. Stat. § 35/3.5).

⁴ HB 4664 (Ill. 2023) (725 Ill. Comp. Stat. § 220/2).

⁵ HB 4664 (Ill. 2023) (225 Ill. Comp. Stat. §§ 60/22 (physicians), 65/70-5 (nurses), 85/30 (pharmacists), 6/60 (behavior analyst), 15/15 (clinical psychologists), 20/19 (clinical social workers), 55/85 (family therapists), 107/80 (clinical counselors), 130/75 (surgical assistants and technologists), 135/95 (genetic counselors)).

⁶ HB 4664 (Ill. 2023) (225 Ill. Comp. Stat. § 60/23).

⁷ HB 4664 (Ill. 2023) (225 Ill. Comp. Stat. § 85/30.1).

⁸ HB 4664 (Ill. 2023) (735 Ill. Comp. Stat. § 40/28-15).

⁹ HB 4664 (Ill. 2023) (735 Ill. Comp. Stat. § 40/28-20).

Provision of a “Clawback Lawsuit” to Recover Damages from Litigation related to Protected Care

A person against whom a judgment has been entered in another state based on the alleged provision, receipt, material support for, or assistance in reproductive health care services lawful in Illinois may bring an action to recover the amount of the out-of-state judgment entered against them and related costs.¹⁰

PROTECTION OF PROFESSIONAL LIABILITY INSURANCE AND PROTECTION RELATED TO HEALTH PLANS

Protection against an Insurer’s Refusal to Issue Insurance, Increase in Premiums, or Denial of Coverage Based Solely on Providing Protected Care

A professional liability insurer may not deny or revoke coverage, increase rates, or take other adverse action against a medical professional or institution based solely on the violation of another state’s laws or disciplinary action by another state’s professional board if related to the provision of health care services lawful in Illinois.¹¹

PRIVACY OF MEDICAL INFORMATION AND OTHER DATA RELATED TO ABORTION AND GENDER-AFFIRMING CARE

Protection Against Disclosure of Medical Information

Although physicians, nurses, and those operating a medical facility have a duty to notify local law enforcement if it reasonably appears that someone has sustained an injury in the commission of a criminal offense, that does not require reporting of “lawful health care activity,” regardless of whether such activity may constitute a violation of another state’s law.¹² Additionally, health records related to lawful health care—including reproductive and gender-affirming health care legal in Illinois—are confidential and exempt from state disclosure under the Freedom of Information Act.¹³

Protection of Location Data

Automatic license plate readers may not sell, share, allow access to, or transfer any data to any out-of-state law enforcement for the purpose of investigating or enforcing a law that interferes with a person’s right to obtain reproductive and gender-affirming health care services lawful in Illinois.¹⁴ Additionally, location information related to lawful health care—including records locating a person’s license plate or cell phone near a provider of lawful health care—is also confidential and exempt from state disclosure under the Freedom of Information Act.¹⁵

¹⁰ HB 4664 (Ill. 2023) (740 Ill. Comp. Stat. § 126/29-15).

¹¹ HB 4664 (Ill. 2023) (225 Ill. Comp. Stat. § 65/65-65).

¹² HB 4664 (Ill. 2023) (20 Ill. Comp. Stat. § 2630/3.2).

¹³ HB 5239 (Ill. 2024) (735 Ill. Comp. Stat. § 40/28-11).

¹⁴ HB 3326 (Ill. 2023) (625 Ill. Comp. Stat. § 5/2-130).

¹⁵ HB 5239 (Ill. 2024) (735 Ill. Comp. Stat. § 40/28-11).

ABOUT THE CENTER ON REPRODUCTIVE HEALTH, LAW, AND POLICY (CRHLP)

CRHLP is a nationwide think tank and research center created to meet the current national crisis in access to abortion while working towards long-term solutions to advance reproductive justice. CRHLP conducts analysis and research for legal, policy, and narrative change and serves as a trusted hub for convening and engaging academics, advocates, health care providers, policy makers, and community members to reimagine the landscape of reproductive health law and policy. CRHLP also trains the reproductive law and policy leaders of tomorrow. CRHLP is committed to the highest standards of independent inquiry, academic excellence, and rigor. Research findings and conclusions are never altered to accommodate other interests, including those of funders, other organizations, or government bodies and officials.

For more information

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To receive pro bono legal assistance on questions related to the shield laws or other reproductive rights or justice issues, email: larj@law.ucla.edu