

AMENDED IN SENATE APRIL 24, 2025

AMENDED IN SENATE APRIL 10, 2025

AMENDED IN SENATE MARCH 20, 2025

SENATE BILL

No. 59

Introduced by Senator Wiener

**(Coauthors: Senators Cabaldon, Cervantes, Laird, Padilla, and
Pérez)**

**(Coauthors: Assembly Members Mark González, Jackson, Lee, Solache,
Ward, and Zbur)**

January 8, 2025

An act to amend Section 103437 of the Health and Safety Code, relating to vital records, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 59, as amended, Wiener. Change of gender and sex identifier.

Existing law authorizes a person to file a petition with the superior court seeking a judgment recognizing their change of gender to female, male, or nonbinary, including a person who is under 18 years of age. Existing law authorizes a person to file a single petition to simultaneously change the petitioner's name and recognize the change to the petitioner's gender and sex identifier, as specified. Existing law requires a petition for a change of gender and sex identifier or a single petition for change to the petitioner's name and to recognize the change of the petitioner's gender and sex identifier filed by a person under 18 years of age, and any papers associated with the proceeding, to be kept confidential by the court. Existing law requires the court to limit access

to these records to specified individuals, including, among others, the minor, the minor's parents, and their attorneys.

This bill would expand that confidentiality to apply to all filed petitions, regardless of the age of the petitioner, and any papers associated with a proceeding for a change of gender and sex identifier, for a single petition for change to the petitioner's name and to recognize the change to the petitioner's gender and sex identifier, or for a change of name to conform the petitioner's name to the petitioner's gender identity, as specified. This bill would make these confidentiality requirements retroactive and require the Judicial Council to ensure that all courts have implemented a method to ensure the court maintains the confidentiality of these petitions and associated papers that were filed prior to the effective date of this act. The bill would authorize, if a person or entity discovers that a court record is not being kept confidential by the court, a person or entity to apply ex parte and without a fee to the court for an order to make those records confidential. The bill would prohibit those records from being posted publicly, on the internet or otherwise, by anyone other than the petitioner.

This bill would make a violation of these confidentiality requirements an injury and, commencing 6 months after the effective date of this act, would authorize a person or entity to institute proceedings for injunctive relief, declaratory relief, or a writ of mandate to enforce them. The bill would require a court to award reasonable attorney's fees and costs to a plaintiff who prevails on a cause of action against a private party pursuant to this authority.

This bill would also authorize a petitioner who has been harmed by a disclosure or continuing disclosure of ~~confidential information in violation of these confidentiality requirements, as specified,~~ records, *as specified*, to, commencing 6 months after the effective date of this act, bring a civil action against the private person or entity that caused the harm. The bill would require a private person or entity found liable to pay actual damages or liquidated damages, punitive damages, and reasonable attorney's fees and costs, as specified.

This bill would require the court, without a public hearing, to seal these types of petitions, as specified, and all court records and papers associated with that proceeding, upon the request of the petitioner and a finding that a petitioner has met the criteria set forth in a specific California Rule of Court.

This bill would make legislative findings and declarations in support of its provisions.

This bill would declare that its provisions are severable.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
2 following:
- 3 (a) Transgender and nonbinary people are experiencing a
4 growing epidemic of discrimination, harassment, and violence in
5 California and across the country.
- 6 (b) According to the Department of Justice, hate crimes
7 motivated by antitransgender bias increased by 10.2 percent
8 between 2022 and 2023.
- 9 (c) According to the UCLA School of Law's Williams Institute,
10 in 2021, transgender people were over four times more likely to
11 experience violent victimization, including rape, assault, and
12 aggravated or simple assault, than their cisgender peers.
- 13 (d) According to the 2022 U.S. Trans Survey, 30 percent of
14 transgender respondents reported that they were verbally harassed,
15 and 39 percent were harassed online, in the last 12 months because
16 of their gender identity or expression.
- 17 (e) Having personally identifying information exposed without
18 their knowledge or consent puts transgender and nonbinary people
19 at greater risk for harassment, discrimination, and violence.
- 20 (f) Transgender people in the States of California, New York,
21 and Washington and elsewhere have reported harassment and
22 cyberbullying after their personal information was released online.
- 23 (g) In 2023, California passed Assembly Bill 223 (Chapter 221
24 of the Statutes of 2023) (Ward), the Transgender Youth Privacy
25 Act, which requires courts to keep all court records related to name
26 and gender marker changes for minors confidential.

1 (h) With harassment and violence against transgender and
2 nonbinary people on the rise, and a federal administration that is
3 openly hostile to the transgender community, it is imperative for
4 California to expand these protections to safeguard the privacy
5 and safety of all transgender and nonbinary Californians.

6 (i) On October 29, 2024, the Court of Appeal for the Fifth
7 Appellate District of California issued a unanimous decision for
8 *In re M.T.* (2024) 106 Cal.App.5th 322 (M.T.), a case of first
9 impression.

10 (j) In its decision, the court found that petitioner M.T. had
11 demonstrated that she met the criteria under subdivision (d) of
12 California Rule of Court 2.550 for an order justifying the sealing
13 of records.

14 (k) The criteria for such sealing of records requires an express
15 finding by the court of facts that establish “(1) There exists an
16 overriding interest that overcomes the right of public access to the
17 record; (2) The overriding interest supports sealing the record; (3)
18 A substantial probability exists that the overriding interest will be
19 prejudiced if the record is not sealed; (4) The proposed sealing is
20 narrowly tailored; and (5) No less restrictive means exist to achieve
21 the overriding interest” (subdivision (d) of California Rule of Court
22 2.550).

23 (l) The court further found that petitioner M.T. cited studies
24 showing transgender people are subject to violence, harassment,
25 and discrimination, that she had provided evidence of harassment
26 specifically directed against her, that she had been outed in a social
27 media post that revealed her transgender identity along with other
28 identifying information, that she had found her case record to be
29 publicly available online, and that she had been the target of
30 transphobic text messages sent to her.

31 (m) The court also concluded that “whether a transgender
32 person’s gender identity conforms with their assigned sex at birth
33 is intimate personal information entitled to protection under the
34 right to privacy. A transgender person thus has a privacy interest
35 in concealing their transgender identity” (*In re M.T.*, 106
36 Cal.App.5th at 341).

37 (n) It is the intent of the Legislature in enacting this act to
38 include provisions that would codify the decision of the Court of
39 Appeal for the Fifth Appellate District in *M.T.* and would clarify
40 the decision’s application in state law.

1 (o) By codifying the Court of Appeal for the Fifth Appellate
2 District's unanimous ruling in M.T., this act ensures that important
3 privacy protections regarding the sealing of records are available
4 to all transgender individuals subject to violence, harassment, and
5 discrimination.

6 SEC. 2. Section 103437 of the Health and Safety Code is
7 amended to read:

8 103437. (a) The petition and any papers associated with a
9 proceeding for a change of gender and sex identifier pursuant to
10 Section 103430, for a single petition for change to the petitioner's
11 name and to recognize the change to the petitioner's gender and
12 sex identifier pursuant to Section 103435, or for a change of name
13 to conform the petitioner's name to the petitioner's gender identity
14 pursuant to Section 1277.5 of the Code of Civil Procedure shall
15 be kept confidential by the court.

16 (1) Until a judgment is issued, the court shall limit access to the
17 court records in the proceeding, including the register of actions,
18 to the petitioner, an adult who signed the petition, the petitioner's
19 parents, guardians, or guardians ad litem, if the petitioner was a
20 minor at the time the petition was filed, an individual who is subject
21 to service of an order to show cause related to the petition, and an
22 attorney representing those individuals.

23 (2) Upon granting the judgment, the court shall limit access to
24 the court records in the proceeding, including the register of
25 actions, to the petitioner, an adult who signed the petition, and an
26 attorney representing those individuals.

27 (b) Upon the request of the petitioner and a finding that a
28 petitioner has met the criteria set forth in subdivision (d) of
29 California Rule of Court 2.550, or a successor rule or provision
30 addressing the same subject matter, the court shall, without a public
31 hearing, seal an entire petition, as described in subdivision (a), and
32 all court records and papers associated with the proceedings.

33 (c) This section is retroactive and applies to all petitions and
34 papers associated with the proceedings described in subdivision
35 (a), regardless of the date of filing, including those that were filed
36 prior to the effective date of the act that added this subdivision.
37 The Judicial Council shall ensure that all courts have implemented
38 a method to ensure the court maintains the confidentiality of all
39 petitions and papers associated with the proceedings described in
40 subdivision (a), regardless of the date of filing, including those

1 that were filed prior to the effective date of the act that added this
2 subdivision.

3 (1) If a person or entity discovers that a court record in the
4 proceeding, including the register of actions, is not being kept
5 confidential by the court, a person or entity may apply ex parte
6 and without a fee to the court for an order to make those records
7 confidential.

8 (2) A confidential record pursuant to this section shall not be
9 posted publicly, on the internet or otherwise, by a person other
10 than the petitioner.

11 (d) A violation of this section constitutes an injury. ~~Commencing~~

12 (e) *Commencing* six months after the operative date of this act,
13 a person or entity may institute proceedings for injunctive relief,
14 declaratory relief, or a writ of mandate in a court of competent
15 jurisdiction to enforce this section. A court shall award reasonable
16 attorney's fees and costs to a plaintiff who prevails on a cause of
17 action against a private party pursuant to this subdivision.

18 ~~(e)~~

19 (f) (1) In addition to any other sanctions, penalties, or remedies
20 provided by law, commencing six months after the operative date
21 of this act, a petitioner who has been harmed by a disclosure or
22 continuing disclosure of ~~confidential information in violation of~~
23 ~~this section, including, but not limited to, unauthorized access or~~
24 ~~sharing of confidential or sealed records, records by a private~~
25 ~~person or entity with actual knowledge that those records were~~
26 ~~made confidential or sealed by the court~~ may bring a civil action
27 in a court of competent jurisdiction against a private person or
28 entity that caused the harm. A civil action pursuant to this
29 subdivision may be brought by a petitioner or on behalf of a
30 petitioner by the petitioner's parent, guardian, or guardian ad litem,
31 if the petitioner is a minor.

32 (2) If a private person or entity is found liable in a cause of
33 action brought pursuant to paragraph (1), the private person or
34 entity shall be liable to the petitioner for all of the following:

35 (A) Actual damages, but not less than liquidated damages in
36 the amount of five thousand dollars (\$5,000).

37 (B) Punitive damages upon proof of willful or reckless disregard
38 of the law.

39 (C) Reasonable attorney's fees and costs.

1 *SEC. 3. The provisions of this act are severable. If any*
2 *provision of this act or its application is held invalid, that invalidity*
3 *shall not affect other provisions or applications that can be given*
4 *effect without the invalid provision or application.*

5 ~~SEC. 3.~~

6 *SEC. 4.* The Legislature finds and declares that Section 2 of
7 this act, which amends Section 103437 of the Health and Safety
8 Code, imposes a limitation on the public’s right of access to the
9 meetings of public bodies or the writings of public officials and
10 agencies within the meaning of Section 3 of Article I of the
11 California Constitution. Pursuant to that constitutional provision,
12 the Legislature makes the following findings to demonstrate the
13 interest protected by this limitation and the need for protecting
14 that interest:

15 It is in the best interest for the public to keep these records
16 confidential to ensure the privacy and safety of transgender and
17 nonbinary individuals who have experienced, and continue to
18 experience, a growing epidemic of harassment and violence in
19 California and across the country. According to the UCLA School
20 of Law’s Williams Institute, in 2021 transgender people were over
21 four times more likely to experience violent victimization,
22 including rape, assault, and aggravated or simple assault, than their
23 cisgender peers. In 2022, the U.S. ~~Transgender~~ *Trans* Survey found
24 that nearly one-third (30 percent) of transgender respondents
25 reported that they were verbally harassed in the last 12 months
26 because of their gender identity or expression and, according to
27 the Hate Crime in California 2023 report by the Department of
28 Justice, between 2022 and 2023, hate crime events motivated by
29 antitransgender bias increased by 10.2 percent. Being outed and
30 having their personal information exposed puts transgender and
31 nonbinary individuals at greater risk for harassment, discrimination,
32 and violence. It also significantly increases their risk of mental
33 health harms and suicide. According to a joint study conducted by
34 researchers at Columbia University, Harvard University, the
35 Williams Institute, and the Fenway Institute at Fenway Health,
36 transgender adults are seven times more likely to contemplate
37 suicide, four times more likely to attempt it, and eight times more
38 likely to engage in nonsuicidal self-injury than cisgender adults.
39 Allowing transgender individuals to choose when and how they

1 decide to share their personal information is vital in protecting
2 their mental and physical health.

3 ~~SEC. 4.~~

4 *SEC. 5.* This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety within
6 the meaning of Article IV of the California Constitution and shall
7 go into immediate effect. The facts constituting the necessity are:
8 To address the increase in discrimination, violence, harassment,
9 and hate crimes motivated by antitransgender bias, in order to
10 prevent their personal information being exposed by being
11 nonconsensually outed, it is necessary that this act take effect
12 immediately.