

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 ~~petition for a change of gender, sex identifier, and name~~ *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 provision to apply to all filed petitions for a change of gender and sex identifier or filed petitions for a change of gender, sex identifier, and name, and any papers associated with the proceeding, regardless of the age of the person who filed the petition. The bill would require the court to limit access to court records in those proceedings, as specified: *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 ~~this provision~~ *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 ~~those~~ *these* petitions and associated papers that were filed prior to the effective date of this act. The bill would require the court to immediately take steps to make a record confidential if ~~an interested party~~ *a person or entity* or the court discovers that a court record in the proceeding is not being kept 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, 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.

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.*

1 (g) *In 2023, California passed Assembly Bill 223 (Chapter 221*
2 *of the Statutes of 2023) (Ward), the Transgender Youth Privacy*
3 *Act, which requires courts to keep all court records related to*
4 *name and gender marker changes for minors confidential.*

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

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

14 (j) *In its decision, the court found that petitioner M.T. had*
15 *demonstrated that she met the criteria under subdivision (d) of*
16 *California Rule of Court 2.550 for an order justifying the sealing*
17 *of records.*

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

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

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

1 *(n) It is the intent of the Legislature in enacting this act to*
2 *include provisions that would codify the decision of the Court of*
3 *Appeal for the Fifth Appellate District in M.T. and would clarify*
4 *the decision's application in state law.*

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

10 **SECTION 1.**

11 **SEC. 2.** Section 103437 of the Health and Safety Code is
12 amended to read:

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

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

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

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

39 **(b)**

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

(1) ~~If an interested party~~ *a person or entity* or the court discovers that a court record in the proceeding, including the register of actions, is not being kept confidential by the court, the court shall immediately take steps to make ~~such a~~ *the* record confidential as soon as it is brought to the court's attention and without a fee or requirement for a court order directing the correction.

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

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

(e) (1) *In addition to any other sanctions, penalties, or remedies provided by law, commencing six months after the operative date of this act, a petitioner who has been harmed by a disclosure or continuing disclosure of confidential information in violation of this section, including, but not limited to, unauthorized access or sharing of confidential or sealed records, may bring a civil action in a court of competent jurisdiction against a private person or entity that caused the harm. A civil action pursuant to this subdivision may be brought by a petitioner or on behalf of a petitioner by the petitioner's parent, guardian, or guardian ad litem, if the petitioner is a minor.*

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

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

3 (B) *Punitive damages upon proof of willful or reckless disregard*
4 *of the law.*

5 (C) *Reasonable attorney's fees and costs.*

6 ~~SEC. 2.~~

7 SEC. 3. The Legislature finds and declares that Section 1 2 of
8 this act, which amends Section 103437 of the Health and Safety
9 Code, imposes a limitation on the public's right of access to the
10 meetings of public bodies or the writings of public officials and
11 agencies within the meaning of Section 3 of Article I of the
12 California Constitution. Pursuant to that constitutional provision,
13 the Legislature makes the following findings to demonstrate the
14 interest protected by this limitation and the need for protecting
15 that interest:

16 It is in the best interest for the public to keep these records
17 confidential to ensure the privacy and safety of transgender and
18 nonbinary individuals who have experienced, and continue to
19 experience, a growing epidemic of harassment and violence in
20 California and across the country. According to the UCLA School
21 of Law's Williams Institute, in 2021 transgender people were over
22 four times more likely to experience violent victimization,
23 including rape, assault, and aggravated or simple assault, than their
24 cisgender peers. In 2022, the U.S. Transgender Survey found that
25 nearly one-third (30 percent) of transgender respondents reported
26 that they were verbally harassed in the last 12 months because of
27 their gender identity or expression and, according to the Hate Crime
28 in California 2023 report by the Department of Justice, between
29 2022 and 2023, hate crime events motivated by antitransgender
30 bias increased by 10.2 percent. Being outed and having their
31 personal information exposed puts transgender and nonbinary
32 individuals at greater risk for harassment, discrimination, and
33 violence. It also significantly increases their risk of mental health
34 harms and suicide. According to a joint study conducted by
35 researchers at Columbia University, Harvard University, the
36 Williams Institute, and the Fenway Institute at Fenway Health,
37 transgender adults are seven times more likely to contemplate
38 suicide, four times more likely to attempt it, and eight times more
39 likely to engage in nonsuicidal self-injury than cisgender adults.
40 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. 3.~~

4 *SEC. 4.* 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.