


<p>California Department of Justice DIVISION OF LAW ENFORCEMENT John D. Marsh, Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p>Subject: <b>Non-Extradition of Individuals Providing Care to Out-of-State Patients in California, or Other Persons in California Who Assist Out-Of-State Patients in Seeking Abortion Care in California</b></p>	<p>No. 2022-DLE-10</p>	<p>Contact for information:  John D. Marsh, Chief Division of Law Enforcement (916) 210-6300</p>
	<p>Date: 9/23/2022</p>	

**TO: All CALIFORNIA DISTRICT ATTORNEYS, CHIEFS OF POLICE, SHERIFFS, AND STATE LAW ENFORCEMENT AGENCIES**

California has recognized and supported reproductive freedom and access to safe, legal abortion for over half a century. Currently, anti-abortion actors in other states are considering ways to track and monitor pregnant and potentially pregnant individuals, their providers, and those who may assist and support them in receiving abortion care. In particular, anti-abortion laws in other states authorize criminal prosecution of those who seek, perform, or assist others in obtaining abortions. Anti-abortion actors in other states are also considering legislation to attempt to extend criminal and civil liability outside their own state borders to patients, providers, and those who assist others in obtaining abortions.

On June 27, 2022, Governor Gavin Newsom issued Executive Order N-12-22 ("Order").<sup>1</sup> The Order ensures that California will not extradite individuals who provide care to out-of-state patients here, or other persons in California who assist out-of-state patients in seeking abortion care in California. The Order is part of the state's expansion of efforts to protect people seeking reproductive care, as well as anyone assisting them. The Order ensures that reproductive freedom and access—including the choice of when or whether to have children—are protected.

This bulletin provides information to assist law enforcement agencies to ensure their practices are consistent with the Governor's Order.

**Executive Order N-12-22**

The Order prohibits extradition of non-fugitives with respect to out-of-state anti-abortion laws.

Specifically, the Order provides that the

- Governor **shall** decline any request;
- received from the executive authority of any other state;
- to issue a Governor's arrest warrant for the arrest or surrender of any person;

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<sup>1</sup> <https://www.gov.ca.gov/2022/06/27/as-abortion-rights-constitutional-amendment-heads-to-ballot-governor-newsom-takes-additional-new-action-to-protect-women-and-providers-in-california/>.

- charged with an alleged criminal violation of a law in the requesting state that involves the provision, receipt, or assistance with *reproductive health care services* in California or a third party state.
  - “Reproductive health care services” are defined to include *all* medical, surgical, counseling, or referral services relating to the human reproductive system, including, but not limited to, services relating to *pregnancy, contraception, or the termination of a pregnancy*.

### **Legal Authority and Examples**

#### Fugitive v. Non-Fugitive

If an “accused was present in the demanding State at the time of the commission of the alleged crime, and [ ] thereafter he fled from that State” (Pen. Code, § 1548.2), that person is known as a “fugitive.” Under federal and state law, “it is the duty of the Governor of this State to have [the accused] arrested and delivered up to the executive authority of any other State” (Pen. Code, § 1548.1).

In contrast, when an accused committed acts outside the demanding state that intentionally resulted in the alleged crime in the demanding state, that person is known as a “non-fugitive.” Under state law, the Governor has discretion to grant or deny another governor’s request for the extradition of a non-fugitive. (Pen. Code, § 1549.1.)

Activity that involves the provision or receipt of reproductive health care services, as defined by the Order, does not constitute crimes under California law. Thus, extradition requests for non-fugitive individuals seeking, providing, or assisting in the procurement or provision of reproductive healthcare services will be denied.

#### Examples

Examples of activity that may involve the provision of reproductive healthcare services include: procuring, providing, or obtaining a prescription for mifepristone or misoprostol and the taking of such medication; the use of the internet or web or phone-based apps to procure, provide or obtain such medication; and providing or obtaining in-clinic or surgical abortion without medical or other justification (as defined by the demanding state). Additionally, language describing activity that may appear criminal under California law may be used to pursue non-fugitive extradition for reproductive rights crimes, such as: child endangerment, child abuse, drug use, or murder.

### **Best Practices**

Below is a summary of best practices for compliance with the Order.

#### Law Enforcement Training

All staff should receive training on this Order. This training should include the following points:

- (1) Law enforcement agencies should closely examine any out-of-state warrant prior to taking any person into custody.
- (2) Law enforcement agencies should be aware that there is no obligation that they make an arrest based on an out-of-state warrant.
- (3) Law enforcement agencies should immediately contact the California Attorney General’s Office if they have any questions regarding an out-of-state warrant and/or this Executive Order.

### District Attorney Training

Reproductive rights crimes may not be clearly identified as such. Prosecutors should carefully review the out-of-state warrant and any supporting documents provided by the out-of-state agency, in consultation with the Attorney General's Office, before filing a complaint pursuant to Penal Code § 1551. Information about the underlying crime(s) may be found in the indictment, information, complaint, or affidavit and the out-of-state warrant provided by the demanding agency. Prosecutors should not rely solely on the statutes contained in the above documents, but should carefully review the underlying facts to ensure that activity associated with reproductive healthcare services is not improperly described as of other criminal laws, such as child neglect, child abuse, drug use, or murder. If the underlying facts cannot be readily determined from the documents provided by the demanding agency, additional documentation should be requested before filing a complaint pursuant to Penal Code § 1551.

### Contact Information

The California Department of Justice is available to assist local law enforcement agencies in complying with the Order. Should your agency or individual officers require technical assistance, please contact Division of Law Enforcement Chief John Marsh at (916) 210-6300, Deputy Attorney General Tia Coronado at [Tia.Coronado@doj.ca.gov](mailto:Tia.Coronado@doj.ca.gov) or (916) 210-7690, or Senior Assistant Attorney General Renuka George in the Department's Healthcare Rights and Access Section at [Renuka.George@doj.ca.gov](mailto:Renuka.George@doj.ca.gov) or (916) 714-3563.