

**MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER & PRELIMINARY INJUNCTION**

I. INTRODUCTION

Plaintiffs are parents, their transgender children, and a co001 Tw-and

psychologist, psychiatrist, pediatrician, and pediatric endocrinologist. ¶¶ 14, 15.

Amy has begun puberty-blocking medication at the direction of her providers.

¶ 16. Without these medications, Amy would undergo puberty and her body would develop in ways that are inconsistent with her gender identity. . ¶ 17.

Amy's providers continue to monitor her treatment and, together with Amy and her parents, have concluded it will be medically necessary for her to receive hormone therapy. . ¶ 17. The Ban will prevent Amy from obtaining this treatment, which will have devad()Tj0.00 (re)4 (c)3.3.93.3 (ht ph.2 ()y()Tj01 (c)3.9 (at) (l)1 (l)

Lisa Zoe is a 10-year-old transgender girl who lives with her parents, Anna and Scott Zoe, and her sibling, in Atlanta, Georgia. Declaration of Anna Zoe (“Zoe Decl.”) ¶¶ 3–4. Lisa has been transgender essentially her whole life. ¶ 6. She started wearing dresses at two, and socially transitioned around six. ¶¶ 6, 10–14. Shortly thereafter, her pediatric endocrinologist diagnosed Lisa with gender dysphoria. ¶ 14. Lisa’s pediatrician also diagnosed her with gender dysphoria in February 2023. Because Lisa has not started puberty yet, she has not begun puberty-blocking medication. ¶ 18. Her pediatric endocrinologist is monitoring her hormone levels to determine when puberty-blocking medication will be appropriate, after which she will undergo hormone therapy based on the recommendation of her providers in consultation with Lisa and her parents. . ¶¶ 18–19. If the Ban takes effect, this medically necessary treatment will not be an option for Lisa. ¶ 19. Unless the Ban is enjoined, the Zoe family are strongly considering moving to another state or leaving the country to ensure they can access the medical care Lisa needs. . ¶¶ 22–23.

TransParent is a community-based organization that serves parents and caregivers of transgender and gender-expansive children. Declaration of Susan Halla (“Halla Decl.”) ¶¶ 2–4. Founded in 2011, TransParent now has 19 local

hormone therapy soon. ¶¶ 15–17. The Ban will deprive the Soe family of the ability to pursue this necessary medical care for Brent. ¶¶ 19–22, 25–26.

B. Gender-Affirming Medical Care Is the Safe and Established Course of Treatment for Gender Dysphoria in Minors.

“Gender identity” refers to a person’s internal, innate, and immutable sense of belonging to a particular gender. Declaration of Dr. Daniel Shumer (“Shumer Decl.”) ¶ 25; Declaration of Dr. Ren Massey (“Massey Decl.”) ¶¶ 17–18

by clinically significant distress or impairment in social, occupational, or other important areas of functioning. Shumer Decl. ¶ 37. Left untreated, gender dysphoria can cause a number of discrete harms, including anxiety, depression, self-harm, and suicidal ideations. Shumer Decl. ¶ 42; Massey Decl. ¶ 50.

There is a safe and established course of medical treatment for gender dysphoria that allows transgender individuals to live happy, healthy, and productive lives. Shumer Decl. ¶¶ 33, 79, 93; Massey Decl. ¶ 24. The standard of care lays out a highly individualized and interdisciplinary treatment plan.

changing their pronouns, altering their physical appearance, and correcting identity documents. Shumer Decl. ¶ 46; Massey ¶ 26. This is often accompanied by ongoing supportive therapy. Shumer Decl. ¶ 46.

Medical interventions may be pursued either concurrently with or after social transition. ¶¶ 59, 56–57; Massey Decl. ¶¶ 26–27. For children at or near the onset of puberty, puberty-blocking medication is the first step. Shumer Decl. ¶ 47; Massey Decl. ¶ 27. These medications delay the onset or continuation of puberty and reduce the development of secondary sex characteristics that are inconsistent with the patient’s gender identity. Shumer Decl. ¶¶ 62, 65; Massey Decl. ¶ 27.

Puberty-blocking medications alone are not a long-term solution for treating gender dysphoria. Rather, they are almost always prescribed as a short-term, temporary first step in a series of interventions including hormone therapy. Shumer ¶ 79, 97. This is in part because long-term use of these medications can increase the risk of lower bone mineral density and vitamin D deficiency. ¶ 82. But it is also because puberty-blocking medications are intended to be a bridge to the next treatment phase. ¶ 79, 97. If, after a set time, the patient’s gender dysphoria desists (which is rare), they go off puberty-blocking medications and their body continues to undergo puberty consistent with their natal sex. ¶ 97. In the more

common scenario, a patient's gender dysphoria persists and hormone therapy is medically necessary.

standard has been endorsed and followed by every relevant expert industry association.⁴ Shumer Decl. ¶ 56.

Moreover, the standard was established through rigorous study, is continuously monitored, and is highly effective. Shumer Decl. ¶¶ 48

The Ban prevents health care professionals from providing transgender minors with the established care described above. Specifically, the Ban regulates hospitals, related institutions, and physicians licensed by the Georgia Composite Medical Board by prohibiting “irreversible procedures or therapies . . . performed on a minor for the treatment of gender dysphoria.”⁵ S.B. 140 § 2(a), S.B. 140 § 3(a). Relevant here, the Ban prohibits “wobi her68 0 Td[(r)-0.nr 6B[miteth

institutions to choose between withholding medically necessary treatment for their
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opposing party,” and (4) that “the injunction would not be adverse to the public interest.” _____, 950 F.3d 795, 806 (11th Cir. 2020) (per curiam) _____, 975 F.3d 1016 (11th Cir. 2020). A court may issue a

decisions for their minor children and singles out transgender minors for unequal treatment. Federal courts reviewing other states' similar bans on gender-affirming medical care have come to this conclusion and issued preliminary injunctions.⁸ This Court should do the same.

The Ban violates the Due Process Clause of the Fourteenth Amendment to

determine whether [gender-affirming medications] are in a child’s best interest on a case-by-case basis.”).

The Ban also violates the Fourteenth Amendment’s Equal Protection Clause. U.S. Const. amend. XIV. The Ban discriminates on the basis of sex and transgender status and is subject to intermediate scrutiny. Because the Ban cannot meet even rational basis review, much less intermediate scrutiny, Plaintiffs have a substantial likelihood of succeeding on this claim. Indeed, several other federal courts have rightly concluded that similar laws violate the Equal Protection Clause.⁹

a. The Ban Is Subject to Heightened Scrutiny Because It

3833848, at *8 (citing

, 140 S. Ct. 1731, 1737

(2020)).

The Ban draws that line. To lawfully prescribe hormone therapy to a minor in Georgia, a physician must know the minor's natal sex. If the minor's natal sex is female, the physician cannot prescribe testosterone. But if the minor's natal sex is male, the physician can do so. This is so. *Id.* at 11.

sole basis of their transgender status, denying them treatment that would be lawful for their non-transgender peers.

Heightened review is appropriate here for yet another reason. Even if ~~Considered as an independent classification, re.t e4-49 (1.1s 1.1 (e)2.9 (ir)-J-27.989.20 0 Td[(H)3~~

“rely on overbroad generalizations.”

, 582 U.S. 46, 62

(2017). Post hoc justifications will not suffice. at 70. The State cannot make this showing.

- b. Defendants Cannot Establish That Their Asserted Justifications Serve Important Governmental Objectives.

Georgia lacks any legitimate interest in enforcing S.B. 140, much less

S.B. 140 § (1)(6). But the clinical evidence shows that forcing minors to wait until adulthood to pursue gender-affirming medical care will likely lead to a significant increase in mental health issues for transgender minors in Georgia. Shumer Decl. ¶¶ 64, 99; Massey Decl. ¶ 29. For instance, a study comparing over 21,000 patients who desired gender-affirming hormone care found that those who were able to access this care had lower odds of suicidality within a year than those who were not. ¶ 99. In addition, indefinitely delaying puberty without a path to hormone therapy is contrary to global medical practices. ¶ 35–36.

The Ban also fails heightened scrutiny because it deprives Minor Plaintiffs of established medical care to treat a serious medical condition. The irrationality—

happy adults. The State cannot demonstrate that the Ban can survive even a

tradition that parents—not the States or federal courts—play the primary role in nurturing and caring for their children.” _____, 603 F. Supp. 3d at 1151 (internal quotation marks omitted). Moreover, “[a]dherence to the Constitution is always in the public interest.” _____, 2023 WL 3833848, at *16.

IV. REQUEST FOR RELIEF FROM REQUIREMENT TO POST BOND

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CERTIFICATE OF SERVICE

I hereby certify that, on June 29, 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. There is currently no Counsel of Record for Defendants, and so I certify that I will serve the foregoing on Defendants along with the Complaint.

/s/ Elizabeth Littrell
Elizabeth Littrell