



Arkansas Ban on Transition Treatments for Minors Ruled Unconstitutional

A federal judge permanently struck down on Tuesday an Arkansas law dubbed the “Save Adolescents from Experimentation Act,” ([Act 626](#)). The legislation was the first ever to be passed in the United States to outlaw any “gender-affirming” medical treatment for persons under 18 years of age.

U.S. District Judge James Moody of the Eastern District of Arkansas [ruled](#) the ban violated the rights of children, their parents, and the rights of healthcare providers. The court found that the ban went against the Equal Protection Clause, the Due Process Clauses, and the First Amendment of the U.S. Constitution.



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Moody wrote in his [decision](#), “Rather than protecting children or safeguarding medical ethics, the evidence showed that the prohibited medical care improves the mental health and well-being of patients and that, by prohibiting it, the State undermined the interests it claims to be advancing.”

The Act was introduced in 2021, becoming law in April after the Arkansas Republican legislature overrode then-Governor Asa Hutchinson’s veto. The reasons given for outlawing any gender-affirming medical treatment for minors were, as the bill’s [text](#) stated, “Arkansas has a compelling government interest in protecting the health and safety of its citizens, especially vulnerable children. Only a small percentage of the American population experiences distress at identifying with their biological sex,” and “Even among people who have undergone inpatient gender reassignment procedures, suicide rates, psychiatric morbidities, and morality rates remain markedly elevated above the background population.”

At the time, Hutchinson told reporters that he vetoed the bill, according to [CNN](#), “because the bill ‘would be and is a vast government overreach’ and because it would’ve created ‘new standards of legislative interference with physicians and parents as they deal with some of the most complex and sensitive matters involving young people.’”

Noting that his veto faced a likely override, Hutchinson added, “I am hopeful, though, that my action will cause conservative Republican legislators to think through the issue again and hopefully come up with a more restrained approach that allows a thoughtful study of the science and ethics surrounding the issue before acting.”

The ACLU filed a [suit](#) against the state, seeking to block the implementation of the law, on behalf of a group of families with transgender youth and two doctors and their patients. The Arkansas Democrat Gazette [reported](#) the ACLU stated the law “violates the Equal Protection Clause of the Fourteenth Amendment because it discriminates on the basis of sex and transgender status by prohibiting certain medical treatments only for transgender patients and only when the care is ‘related to gender



Written by [David Kelly](#) on June 22, 2023

transition,' it violates parental autonomy of the parent plaintiffs guaranteed by the due process clause of the Fourteenth Amendment, and it violates all plaintiffs free speech protections under the First Amendment."

Shortly after the filing, the Department of Justice submitted a [statement](#) of interest in support of the plaintiffs, followed by Judge Moody blocking the enforcement of the law while the court case was ongoing.

Arkansas may have been the first state to pass a ban on so-called gender-affirming medical treatment for minors, but they are not alone. As the *Washington Post* [reported](#), "Two states, Arizona and Alabama, passed similar bans last year. In the first six months of 2023, roughly 34 states have introduced more than 100 different gender-affirming care restrictions in their legislatures, [according](#) to the ACLU. In some states, such as Texas and Florida, state officials have also tried to bar access to gender-affirming care through executive action and state medical boards."

Responding to the growing legislative efforts to ban transgender treatments for minors, the American Academy of Pediatrics (AAP) wrote on a [blog post](#) last summer, titled Why We Stand Up for Transgender Children and Teens,

There is a dangerous movement taking place, led by extremists, targeting youth who are receiving gender-affirming care, and vilifying the pediatricians providing their care. The result has been rampant disinformation about what this care is and real threats of violence against some of our members....

There is strong consensus among the most prominent medical organizations worldwide that evidence-based, gender-affirming care for transgender children and adolescents is medically necessary and appropriate. It can even be lifesaving. The decision of whether and when to start gender-affirming treatment, which does not necessarily lead to hormone therapy or surgery, is personal and involves careful consideration by each patient and their family.

After Tuesday's ruling, the ACLU did a victory lap. "We're relieved and grateful that the court has ruled in favor of these brave Arkansans and their rights, protecting life-saving care that should be available to all trans youth," said Holly Dickson, executive director of the ACLU of Arkansas, in a [press release](#). "This decision sends a clear message. Fear-mongering and misinformation about this health care do not hold up to scrutiny; it hurts trans youth and must end. Science, medicine, and law are clear: gender-affirming care is necessary to ensure these young Arkansans can thrive and be healthy."

However, as expected, the state of Arkansas plans to appeal the ruling, with Attorney General Tim Griffin stating in a [press release](#),

I am disappointed in the decision that prevents our state from protecting our children against dangerous medical experimentation under the moniker of "gender transition." Unfortunately, Judge Moody misses what is widely understood across the United States and in the United Kingdom and European countries: There is no scientific evidence that any child will benefit from these procedures, while the consequences are harmful and often permanent. I will continue fighting as long as it takes to stop providers from sterilizing children. We plan to appeal Judge Moody's decision to the Eighth Circuit.



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