

No. 23-477

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IN THE  
**Supreme Court of the United States**

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UNITED STATES OF AMERICA,  
*Petitioner,*

*v.*

JONATHAN THOMAS SKRMETTI, ATTORNEY GENERAL  
AND REPORTER FOR TENNESSEE, ET AL.,  
*Respondents,*

*and*

L.W., BY AND THROUGH HER PARENTS AND NEXT  
FRIENDS, SAMANTHA WILLIAMS AND BRIAN WILLIAMS,  
ET AL.,  
*Respondents in Support of Petitioner.*

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On Writ of Certiorari to the United States Court of  
Appeals for the Sixth Circuit

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**BRIEF OF THE TREVOR PROJECT, JUVENILE LAW  
CENTER, AND NATIONAL CENTER FOR YOUTH LAW  
AS *AMICI CURIAE* IN SUPPORT OF PETITIONER AND  
RESPONDENTS IN SUPPORT OF PETITIONER**

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**TABLE OF CONTENTS**

	Page
TABLE OF AUTHORITIES .....	ii
INTEREST OF <i>AMICI CURIAE</i> .....	1
SUMMARY OF THE ARGUMENT .....	3
ARGUMENT .....	6
I.    The Banned Medical Care Improves the Mental Health and Well-Being of Transgender Youth.....	7
II.   The Banned Medical Care Decreases Suicide Risk for Transgender Youth. ....	12
III.  Vulnerable Populations Are Disproportionally Harmed by Transgender Health Care Bans.....	17
CONCLUSION .....	26

## TABLE OF AUTHORITIES

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<i>Brandt v. Rutledge</i> , 47 F.4th 661 (8th Cir. 2022) .....	16
---	----

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§ 68-33-101(m) .....	4
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**INTEREST OF *AMICI CURIAE*<sup>1</sup>**

The Trevor Project, Juvenile Law Center, and National Center for Youth Law respectfully submit this brief as *amici curiae* in support of Petitioner and Respondents in Support of Petitioner.

**The Trevor Project.** The Trevor Project is the nation’s leading LGBTQ+ youth suicide prevention and crisis intervention organization. The Trevor Project offers the only nationwide accredited, free, and confidential phone, instant message, and text message crisis intervention services for LGBTQ+ youth. These services are used by tens of thousands of youth each month. Through analyzing and evaluating data obtained from these services and national surveys, The Trevor Project produces innovative research that brings new knowledge, with clinical implications, to issues affecting LGBTQ+ youth.

**Juvenile Law Center.** Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center’s legal and policy agenda is informed by—and often conducted in collaboration with—youth, family members, and grassroots partners. Since its founding, Juvenile Law Center has filed influential *amicus* briefs in state and federal courts across the country to ensure that laws, policies, and practices affecting youth advance racial and economic equity

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<sup>1</sup> Pursuant to Rule 37.6, counsel for *amici* authored this brief in whole; no party’s counsel authored, in whole or in part, this brief; and no person or entity other than *amici* and its counsel contributed monetarily to preparing or submitting this brief.



and are consistent with children's unique developmental characteristics and human dignity.

**National Center for Youth Law.** The National Center for Youth Law ("NCYL") is a non-profit organization that works to build a future in which every child thrives and has a full and fair opportunity to achieve the future they envision for themselves. For over five decades, NCYL has worked to protect the rights of low-income youth and youth of color in order to ensure that they have the resources, support, and opportunities they need to live safely with their families in their communities and that public agencies promote their safety and wellbeing. NCYL's goal is to center the voices of youth in its work, including youth who identify as lesbian, gay, bisexual, transgender, queer, intersex, asexual, two-spirit, and other identities across the gender and sexuality identity spectrum.

\* \* \*

*Amici* have a substantial interest in ensuring that all people, including transgender people, can live their lives free from discrimination and are able to access the health care they need. For decades, *amici* have worked firsthand with hundreds of thousands of LGBTQ+ youth, including by providing mental health and support services. *Amici* know all too well the devastating harm that can result when transgender youth are denied access to needed medical care.

*Amici* are gravely concerned that upholding the Sixth Circuit's ruling in this case will have profound negative mental health impacts and potentially life-threatening consequences for transgender youth.

Denying access to medical care and treating transgender youth disparately because of their transgender status are correlated with substantially increased risks of suicide and negative mental health outcomes. For these reasons, *amici* have a substantial interest in this litigation and file this brief in support of Petitioner and Respondents in Support of Petitioner.

### SUMMARY OF THE ARGUMENT

Denying transgender youth access to essential medical care on a blanket basis is discriminatory and dangerous. The potential ramifications cannot be overstated: access to medically necessary care can be the difference between life and death.

Tennessee Senate Bill 1 (hereafter, the “Ban”) prevents transgender youth from obtaining critical and often life-saving medical care that major medical associations in the United States have endorsed as safe and effective. The Ban prohibits *all* medical treatments that “[e]nabl[e] a minor to identify with, or live as, a purported identity inconsistent with the minor’s sex,” and medical interventions that “treat[] purported discomfort or distress” resulting from gender dysphoria.<sup>2</sup> The Ban defines sex as an individual’s “anatomy and genetics existing at the time of birth.”<sup>3</sup> In particular and relevant here, the Ban restricts the distribution of a hormone or

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<sup>2</sup> Tenn. Code Ann. § 68-33-103(a)(1) (2023).

<sup>3</sup> Tenn. Code Ann. § 68-33-102(9) (2023).

puberty-delaying medications to a minor if it is used to treat gender dysphoria.<sup>4</sup>

The Ban is deliberately and exclusively targeted at transgender youth, an already vulnerable population. The Ban does not prohibit the same medical treatments when prescribed for *any* purpose *other than* providing transition-related care for transgender youth.<sup>5</sup> By singling out transgender youth for disparate treatment, the Ban subverts the very goal it purportedly seeks to achieve: to “protect[] minors from physical and emotional harm.”<sup>6</sup> Existing evidence strongly demonstrates that denying transgender youth access to medical care prescribed to alleviate the discomfort and distress resulting from gender dysphoria will cause significant harm.

The Ban explicitly prohibits medications like puberty-delaying hormones, which are effective in treating the severe distress that can result when an individual’s physical appearance does not align with their gender identity.<sup>7</sup> These medications have safely been used for this purpose for decades.<sup>8</sup>

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<sup>4</sup> Tenn. Code Ann. § 68-33-104 (2023).

<sup>5</sup> For example, there is no violation of the law if a healthcare provider performs a medical procedure to treat a minor’s congenital defect, precocious puberty, disease, or physical injury. *See* Tenn. Code Ann. § 68-33-103(b)(1) (2023).

<sup>6</sup> Tenn. Code Ann. § 68-33-101(m) (2023).

<sup>7</sup> David C. Call et al., *Providing Affirmative Care to Transgender and Gender Diverse Youth: Disparities, Interventions, and Outcomes*, CURRENT PSYCH. REPS., Apr. 13, 2021, at 1, 3–4.

<sup>8</sup> E. Coleman et al., *Standards of Care for the Health of Transgender and Gender Diverse People*, INT’L J. TRANSGENDER HEALTH, Sept. 15, 2022, at S1, S18 (“Gender-

The availability of medical treatments is particularly critical for transgender minors. Receiving needed medical care has been linked to beneficial mental health outcomes for transgender youth. As the frontline experience of *amici* confirms, medical care can reduce the impact of mental health struggles such as depression and anxiety, aid in reducing gender dysphoria, and improve transgender minors' quality of life. Further, medical treatment has been shown to decrease suicidality in transgender minors. While LGBTQ+ young people are not inherently prone to suicide risk because of their sexual orientation or gender identity, they are placed at higher risk because of how they are mistreated and stigmatized by society through discrimination, violence, rejection, and the resulting dysphoria.

While transgender youth generally already face an increased risk of suicidality and mental health struggles due to experiencing high rates of discrimination and violence, that risk is amplified for particularly vulnerable populations, including transgender youth of color, low-income and rural youth, transgender youth in state custody through the foster care system or juvenile legal system, and minors experiencing housing instability. For example, Black transgender and nonbinary youth report almost double the rate of physical threats or

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affirming interventions are based on decades of clinical experience and research; therefore, they are not considered experimental, cosmetic, or for the mere convenience of a patient. They are safe and effective at reducing gender incongruence and gender dysphoria[.]” (collecting studies); Simon Giordano & Søren Holm, *Is Puberty Delaying Treatment ‘Experimental Treatment?’*, 21 INT’L J. TRANSGENDER HEALTH 113 (2020).

harm as compared to Black cisgender LGBTQ+ youth (40% to 22%).<sup>9</sup> Withholding needed medical treatment for transgender youth will only exacerbate the discrimination, violence, and mental health harms that these vulnerable populations already face.

For these reasons, and as set forth more fully below, the Court should reverse the judgment of the Sixth Circuit.

### ARGUMENT

The Ban prevents transgender youth from accessing safe, physician-prescribed medical care—care which correlates with improved mental health outcomes. In so doing, the Ban fails to safeguard either the physical or psychological well-being of transgender minors. Rather, the disruption and denial of care mandated by the Ban could cause transgender youth to experience unwanted traumatic and potentially permanent physical changes that can cause irreparable physical and mental harm. Reversing the Sixth Circuit’s decision is therefore critical to ensure that transgender minors continue to have access to the essential medical care that they need.

The Ban prohibits all medical treatments, including “[p]rescribing, administering, or dispensing

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<sup>9</sup> THE TREVOR PROJECT, RESEARCH BRIEF: MENTAL HEALTH OF BLACK TRANSGENDER AND NONBINARY YOUNG PEOPLE 2 (2023), [https://www.thetrevorproject.org/wp-content/uploads/2023/02/EMBARGOED\\_2.28.23\\_The-Trevor-Project-Research-Brief\\_Black-TGNB-Youth-Mental-Health.pdf](https://www.thetrevorproject.org/wp-content/uploads/2023/02/EMBARGOED_2.28.23_The-Trevor-Project-Research-Brief_Black-TGNB-Youth-Mental-Health.pdf) [hereinafter TREVOR PROJECT BRIEF ON BLACK TRANSGENDER YOUTH].

any puberty blocker or hormone” if the treatment is intended to “[e]nabl[e] a minor to identify with, or live as, a purported identity inconsistent with the minor’s sex” or to treat “purported discomfort or distress from a discordance between the minor’s sex and asserted identity.”<sup>10</sup> The Ban therefore explicitly prohibits the prescription both of puberty-delaying medications and of hormone therapy to induce puberty consistent with a patient’s gender identity to treat transgender youth suffering from gender dysphoria. The Ban has disrupted treatment already being provided and denies future care to transgender youth seeking access.

### **I. The Banned Medical Care Improves the Mental Health and Well-Being of Transgender Youth.**

Access to medical care prohibited by the Ban has been consistently shown to ameliorate mental health challenges for transgender minors by reducing their anxiety, depression, and gender dysphoria, and improving their general quality of life.

Quantitative data collected by The Trevor Project demonstrates a correlation between transgender youth’s access to hormone therapy and decreased incidences of depression and suicidality. Specifically, a peer-reviewed study of 11,914 transgender or nonbinary youth found that gender-affirming hormone therapy is associated with nearly 40% lower odds of recent depression and attempting suicide in the past year for transgender or nonbinary

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<sup>10</sup> Tenn. Code Ann. §§ 68-33-102(5)(B); 68-33-103(a)(1) (2023).

participants between the ages of 13 and 17.<sup>11</sup> Overall, the study's results indicate a "significant relationship" between the receipt of gender-affirming hormone therapy and lower suicidality among transgender and nonbinary youth.<sup>12</sup> Other published studies have reached similar results.<sup>13</sup> In each of these studies, mental health outcomes were correlated with access to the medical care that the Ban now prohibits.

Qualitative data collected by The Trevor Project further underscores these studies' findings: access to puberty-delaying medications and hormone therapy is key to transgender youth's well-being and positive self-concept. When asked "[w]hat are things that you do yourself that make you feel happy . . . about your gender?", transgender teenagers highlighted that the physical changes associated with receiving medical care brought them enormous relief and enabled them to feel comfortable with themselves and to have the self-confidence to interact with others.<sup>14</sup>

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<sup>11</sup> Amy E. Green et al., *Association of Gender-Affirming Hormone Therapy with Depression, Thoughts of Suicide, and Attempted Suicide Among Transgender and Nonbinary Youth*, 70 J. ADOLESCENT HEALTH 643, 647 (2022).

<sup>12</sup> *Id.*

<sup>13</sup> See 2020 INT'L J. PEDIATRIC ENDOCRINOLOGY 8, at 1, 3–4; Annelou L.C. de Vries et al., *Puberty Suppression in Adolescents With Gender Identity Disorder: A Prospective Follow-Up Study*, 8 J. SEXUAL MED. 2276, 2277, 2281 (2011); Laura E. Kuper et al., *Body Dissatisfaction and Mental Health Outcomes of Youth on Gender-Affirming Hormone Therapy*, PEDIATRICS, Apr. 2020, at 1, 5–9.

<sup>14</sup> The referenced qualitative responses are internal data, gathered during the preparation of THE TREVOR PROJECT, 2021 NATIONAL SURVEY ON LGBTQ YOUTH MENTAL HEALTH

Scientific studies have also documented the converse: the delay or denial of such medical care is correlated with negative mental health effects on transgender youth.<sup>15</sup> Puberty-delaying medications allow transgender adolescents with gender dysphoria to pause endogenous puberty (puberty driven by the sex hormone produced in the adolescent's body), and avoid heightened gender dysphoria and the permanent physical changes that occur during that period. Without access to puberty-delaying medications, transgender adolescents will undergo endogenous puberty.<sup>16</sup> Once those adolescents reach the age of majority, the physiological changes from puberty can be difficult (if not impossible) to reverse.<sup>17</sup> Another study found that transgender youth who were unable to obtain medical care until the later stages of puberty were 5.49 times more likely to report depressive disorders and 4.18 times more likely to report anxiety disorders than those who began care earlier in adolescence.<sup>18</sup>

Transgender youth who are forced to discontinue medical care face similarly negative physical and mental health consequences. If hormone treatment that has begun is discontinued, transgender youth will resume endogenous puberty and develop secondary sex characteristics incongruous with their

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(2021), <https://www.thetrevorproject.org/wp-content/uploads/2021/05/The-Trevor-Project-National-Survey-Results-2021.pdf> [hereinafter 2021 TREVOR PROJECT NATIONAL SURVEY].

<sup>15</sup> Kuper et al., *supra* note 13, at 5–9.

<sup>16</sup> *Id.*

<sup>17</sup> Call et al., *supra* note 7, at 4.

<sup>18</sup> Julie C. Sorbara et al., *Mental Health and Timing of Gender-Affirming Care*, PEDIATRICS, Oct. 2020, at 5.



gender identity, which researchers have noted can be “highly upsetting for most younger [transgender] adolescents,” triggering further feelings of gender dysphoria.<sup>19</sup> Experts have thus concluded that “withholding interventions for adolescents is not a neutral option and may exacerbate gender dysphoria and contribute to gender minority stress experiences, and mental health distress.”<sup>20</sup>

These reported detrimental effects of delayed or disrupted hormonal care are consistent with the results of The Trevor Project’s own qualitative and quantitative research. In the 2021 National Survey on LGBTQ Youth Mental Health, several transgender adolescents reported feeling sad and gender-dysphoric when access to medical care was delayed or denied. In response to the question “[w]hat are things that others do that make you feel sad (or dysphoric) about your gender?”, responses included:

- “Being too late with hormones to affect my voice”; and
- “Being denied to transition, denied hormones.”<sup>21</sup>

Moreover, in 2024, 61% of transgender youth receiving medical care impacted by the Ban reported

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<sup>19</sup> De Vries et al., *supra* note 13, at 2277.

<sup>20</sup> Claire A. Coyne et al., *Gender Dysphoria: Optimizing Healthcare for Transgender and Gender Diverse Youth with a Multidisciplinary Approach*, 19 NEUROPSYCHIATRIC DISEASE & TREATMENT 479, 484 (2023).

<sup>21</sup> See 2021 TREVOR PROJECT NATIONAL SURVEY, *supra* note 14 (internal qualitative data).

being “somewhat or very concerned about losing access to this care.”<sup>22</sup>

The Trevor Project has conducted polls of LGBTQ+ young people regarding the recent debates around legislation like the Ban, and the results are devastating: 86% of transgender and nonbinary youth say recent debates around bills that discriminate against transgender individuals have negatively impacted their mental health; as a result of these policies and debates in the last year, 45% of transgender youth experienced cyberbullying and nearly 1 in 3 reported not feeling safe to go to the doctor or hospital when they were sick or injured.<sup>23</sup> Policies that will ban doctors from providing gender-affirming medical care to transgender and nonbinary youth make 74% of transgender and nonbinary youth feel angry, 59% feel stressed, 56% feel sad, 48% feel hopeless, 47% feel scared, 46% feel helpless, and 45% feel nervous.<sup>24</sup>

The Ban’s prohibitions ignore the data and what *amici* have witnessed in their work: access to medical treatment improves outcomes for transgender youth, while denying or disrupting that same care has

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<sup>22</sup> THE TREVOR PROJECT, 2024 U.S. NATIONAL SURVEY ON THE MENTAL HEALTH OF LGBTQ+ YOUNG PEOPLE 10 (2024), [https://www.thetrevorproject.org/survey-2024/assets/static/TTP\\_2024\\_National\\_Survey.pdf](https://www.thetrevorproject.org/survey-2024/assets/static/TTP_2024_National_Survey.pdf) [hereinafter 2024 TREVOR PROJECT NATIONAL SURVEY].

<sup>23</sup> THE TREVOR PROJECT, ISSUES IMPACTING LGBTQ YOUTH 7–8 (2023), [https://www.thetrevorproject.org/wp-content/uploads/2023/01/Issues-Impacting-LGBTQ-Youth-MC-Poll\\_Public-2.pdf](https://www.thetrevorproject.org/wp-content/uploads/2023/01/Issues-Impacting-LGBTQ-Youth-MC-Poll_Public-2.pdf).

<sup>24</sup> *Id.* at 12.

negative mental health effects that pose a significant threat to the well-being of transgender young people.

## **II. The Banned Medical Care Decreases Suicide Risk for Transgender Youth.**

Access to medical care for transgender adolescents is also empirically associated with a decreased risk of suicide. While suicidality is complex and multi-factorial, receiving needed medical care can decrease its risk factors for transgender youth. Without access to such care—including the treatments that the Ban forbids—many transgender adolescents will feel that their options are limited and will feel helpless.

Transgender youth are at a heightened risk of suicidality compared to the population at large—not because of anything inherent to their gender identity, but rather because of stress related to their gender identity and minority stress experiences, such as discrimination and victimization.<sup>25</sup> The Trevor Project’s 2024 National Survey found that *almost half* of transgender and nonbinary young people (46%) seriously considered attempting suicide in the past year, and 14% of transgender young people attempted suicide in that time.<sup>26</sup> This is higher than the 13% of straight, cisgender youth who seriously considered suicide in the last year and 6% who made a suicide

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<sup>25</sup> Michael L. Hendricks & Rylan J. Testa, *A Conceptual Framework for Clinical Work with Transgender and Gender Nonconforming Clients: An Adaptation of the Minority Stress Model*, 43 PROF. PSYCH.: RES. & PRAC. 460, 462–63 (2012).

<sup>26</sup> 2024 TREVOR PROJECT NATIONAL SURVEY, *supra* note 22, at 3.

attempt, per data from the CDC.<sup>27</sup> Another study found that 56% of transgender adolescent participants reported a previous lifetime suicide attempt and 86% reported suicidal ideation within the past six months.<sup>28</sup> A 2018 study found that 30% to 50% of transgender adolescent participants reported attempting suicide.<sup>29</sup> Transgender individuals ages 18 to 25 are around seven times more likely to report thoughts of suicide and six times more likely to report a suicide attempt than similarly aged non-transgender individuals.<sup>30</sup>

Transgender and nonbinary people report experiencing stigma and family rejection due to their gender identity<sup>31</sup> as well as heightened violence.<sup>32</sup> According to the 2024 Trevor Project National Survey,

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<sup>27</sup> The Trevor Project, *Facts About Suicide Among LGBTQ+ Young People* (Jan. 1, 2024), <https://www.thetrevorproject.org/resources/article/facts-about-lgbtq-youth-suicide/> [hereinafter *Facts About Suicide*]; CTRS. FOR DISEASE CONTROL & PREVENTION, *YOUTH RISK BEHAVIOR SURVEY DATA SUMMARY & TRENDS REPORT: 2013–2023* 64 (2024), <https://www.cdc.gov/yrbs/dstr/index.html>.

<sup>28</sup> Ashley Austin et al., *Suicidality Among Transgender Youth: Elucidating the Role of Interpersonal Risk Factors*, 37 *J. INTERPERSONAL VIOLENCE* 2696, 2706 (2022).

<sup>29</sup> Russell B. Toomey et al., *Transgender Adolescent Suicide Behavior*, *PEDIATRICS*, Oct. 2018, at 5–6.

<sup>30</sup> UCLA SCHOOL OF LAW WILLIAMS INST., *SUICIDE THOUGHTS AND ATTEMPTS AMONG TRANSGENDER ADULTS: FINDINGS FROM THE 2015 U.S. TRANSGENDER SURVEY 1*, 30 (2019), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Suicidality-Transgender-Sep-2019.pdf> [hereinafter *FINDINGS FROM THE 2015 U.S. TRANSGENDER SURVEY*].

<sup>31</sup> *Id.* at 4–5.

<sup>32</sup> *Id.* at 20.

28% of transgender and nonbinary young people reported they had been physically threatened or harmed<sup>33</sup> and 65% felt discriminated against<sup>34</sup> in the past year due to their gender identity.

Discrimination based on gender identity is directly correlated to suicidality. The Trevor Project's research has found that transgender and nonbinary youth who had been discriminated against on the basis of their gender identity were *twice as likely* to have attempted suicide as transgender and nonbinary youth who had not experienced such discrimination.<sup>35</sup> Other studies have reported similarly close linkages between gender identity-based victimization and suicidality among transgender youth.<sup>36</sup> Transgender and nonbinary people also report experiencing other risk factors for suicidality such as stigma, family rejection,<sup>37</sup> homelessness and housing instability, and symptoms of anxiety and depression.<sup>38</sup>

Because of these numerous factors that escalate the risk of suicidality for transgender and nonbinary people, it is essential to provide support that mitigates this risk; medical care that is forbidden by

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<sup>33</sup> 2024 TREVOR PROJECT NATIONAL SURVEY, *supra* note 22, at 13.

<sup>34</sup> *Id.* at 15.

<sup>35</sup> 2021 TREVOR PROJECT NATIONAL SURVEY, *supra* note 14, at 13.

<sup>36</sup> *See, e.g.,* Peter Goldblum et al., *The Relationship Between Gender-Based Victimization and Suicide Attempts in Transgender People*, 43 PROF. PSYCH.: RES. & PRAC. 468, 471–72 (2012).

<sup>37</sup> FINDINGS FROM THE 2015 U.S. TRANSGENDER SURVEY, *supra* note 30, at 2–3.

<sup>38</sup> 2024 TREVOR PROJECT NATIONAL SURVEY, *supra* note 22, at 3, 6, 13, 15.

the Ban has been shown to provide this support and mitigation.<sup>39</sup> By 2022, there were over a dozen studies that collectively linked such medical care to reduced suicidality risk.<sup>40</sup> For example, one study found that young transgender people who received medical care such as hormone therapy or puberty-delaying medications for one year experienced 73% lower odds of self-harm or suicidal thoughts than those who had not received such care.<sup>41</sup>

Access to such medical care during adolescence is associated with a reduced risk of suicide for transgender individuals not just in adolescence, but for the rest of their lives. A 2021 study found that receiving hormone therapy is associated with a nearly 40% decreased likelihood of depression and attempting suicide,<sup>42</sup> while a 2022 study of 21,598 participants found that transgender adults who had access to hormone therapy between the ages of 16 and 17 had a 62% lower chance of experiencing suicidal ideation in the previous year when compared to

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<sup>39</sup> The district court in this case, whose factual findings this Court reviews only for clear error, found that receiving needed medical care “lowers rates of . . . suicide.” Pet. App. 196a.

<sup>40</sup> Katherine L. Kraschel et al., *Legislation Restricting Gender-Affirming Care for Transgender Youth: Politics Eclipse Healthcare*, CELL REPS. MED., Aug. 16, 2022, at 1, 4 (collecting studies).

<sup>41</sup> Diana M. Tordoff et al., *Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care*, JAMA NETWORK OPEN, Feb. 25, 2022, at 1, 7.

<sup>42</sup> Green et al., *supra* note 11, at 647.

transgender people who wanted hormone therapy but did not receive it.<sup>43</sup>

The Trevor Project’s qualitative research shows that faced with laws like the Ban, transgender young people are losing hope of ever being fully accepted as who they are. Getting out of bed to face the day is harder, simple tasks like picking out clothing to wear, or teenage milestones like yearbook or driver’s license photos become fraught with constant reminders that their bodies are changing in ways they do not want and cannot control. Rather than connecting with their peers, some transgender youth retreat into isolation, self-harm, and self-hatred—all of which are risk factors for suicide.<sup>44</sup>

The Ban will shut off access to healthcare that can reduce the risk of suicide for Tennessee’s transgender residents not just in their youth, but throughout their lives.

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<sup>43</sup> Jack Turban et al., *Access to Gender-Affirming Hormones During Adolescence and Mental Health Outcomes Among Transgender Adults*, 17 PLOS ONE, Jan. 12, 2022, at 1, 5. The Eighth Circuit has recognized that “several studies have shown statistically significant positive effects of hormone treatment on . . . suicidality . . . of adolescents with gender dysphoria,” and “[n]one has shown negative effects.” *Brandt v. Rutledge*, 47 F.4th 661, 671 (8th Cir. 2022).

<sup>44</sup> See generally, ISSUES IMPACTING LGBTQ YOUTH, *supra* note 23, at 13–15.

### **III. Vulnerable Populations Are Disproportionally Harmed by Transgender Health Care Bans.**

As explained above, transgender youth face an increased risk of harm relative to their peers across a host of vectors, leading to an increased risk of poor mental health and suicidality. Adolescence is a period of heightened vulnerability and rapid physical, social, and emotional development and transitions.<sup>45</sup> However, the negative mental health consequences of the Ban would be particularly acute for some of the most vulnerable transgender youth: transgender youth of color, those living in poverty or in rural areas, transgender foster youth and youth involved in the juvenile legal system, and those experiencing housing instability.<sup>46</sup> The Ban's prohibition of necessary medical care will amplify the pre-existing inequities these populations face in accessing healthcare and treatment, and exacerbate the resulting mental health effects.<sup>47</sup>

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<sup>45</sup> ABBY HARDGROVE ET AL., U.N. DEV. PROGRAMME, YOUTH VULNERABILITIES IN LIFE COURSE TRANSITIONS 2, 4 (2014), <https://hdr.undp.org/system/files/documents/hardgroveboydenhdr2014.pdf>.

<sup>46</sup> 2024 TREVOR PROJECT NATIONAL SURVEY, *supra* note 22, at 2, 5, 7, 14, 16.

<sup>47</sup> CAROLINE MEDINA ET AL., PROTECTING AND ADVANCING HEALTH CARE FOR TRANSGENDER ADULT COMMUNITIES, CTR. FOR AM. PROGRESS 1–2 (2021), <https://www.americanprogress.org/wp-content/uploads/sites/2/2021/08/Advancing-Health-Care-For-Transgender-Adults.pdf>.



The Ban will disproportionately impact transgender youth of color.<sup>48</sup> *First*, despite experiencing more adverse mental health outcomes compared to their white counterparts,<sup>49</sup> transgender people of color experience greater barriers to accessing health care because they may experience discrimination based both on gender identity and race.<sup>50</sup> The Ban would acutely harm transgender youth of color by eliminating healthcare options for a population already struggling disproportionately to find equitable and accessible care.

*Second*, transgender people of color face higher levels of discrimination and violence than their white peers. The Trevor Project's February 2023 research found that Black transgender and nonbinary young people reported nearly *double* the rate of experiencing physical threats or harm compared to their non-transgender peers, and a staggering 77% of Black transgender and nonbinary young people reported experiencing discrimination.<sup>51</sup> These negative experiences contribute to significant adverse mental health outcomes. Devastatingly, *one in four* Black transgender and nonbinary young people reported a

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<sup>48</sup> Jessica Kremen et al., *Addressing Legislation That Restricts Access to Care for Transgender Youth*, PEDIATRICS PERSPECTIVES, May 2021, at 1, 3.

<sup>49</sup> Wesley M. King et al., *Racial/Ethnic Differences in the Association Between Transgender-Related U.S. State Policies and Self-Rated Health of Transgender Women*, 24 BMC PUB. HEALTH, 2024, at 1, 2.

<sup>50</sup> Susanna D. Howard et al., *Healthcare Experiences of Transgender People of Color*, 34 J. GEN. INTERN. MED. 2068, 2073 (2019).

<sup>51</sup> TREVOR PROJECT BRIEF ON BLACK TRANSGENDER YOUTH, *supra* note 9, at 2.

suicide attempt in the past year, which is significantly higher than the average for transgender and nonbinary youth as a whole.<sup>52</sup> Enforcing the Ban will bar access to medical care, including mental health care, for transgender youth of color—the very people statistically most likely to experience violence and discrimination and therefore those most in need of the risk-reducing benefits of this care.

Youth in the child welfare and juvenile legal systems, who are disproportionately youth of color,<sup>53</sup> will also suffer more severe consequences under the Ban. Although foster youth are three to four times more likely to attempt suicide than peers who have not been in foster care,<sup>54</sup> youth in the welfare system do not have consistent access to effective mental

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<sup>52</sup> *Id.* at 1, 3; 2024 TREVOR PROJECT NATIONAL SURVEY, *supra* note 22, at 3; Facts About Suicide, *supra* note 27.

<sup>53</sup> In 2021, 56% of children in foster care were children of color. See Annie E. Casey Found., *Foster Care Race Statistics* (May 14, 2023), <https://www.aecf.org/blog/us-foster-care-population-by-race-and-ethnicity>. Youth of color are more likely than their white peers to be arrested and subsequently enter further into the juvenile justice system. Off. Juv. Just. & Delinq. Prevention, *Racial and Ethnic Disparity in Juvenile Justice Processing* (Mar. 2022), <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/racial-and-ethnic-disparity>.

<sup>54</sup> Daniel J. Pilowksy & Li-Tzy Wu, *Psychiatric Symptoms and Substance Use Disorders in a Nationally Representative Sample of American Adolescents Involved with Foster Care*, 38 J. ADOLESCENT HEALTH 351, 354 (2006); Rhiannon Evans et al., *Comparison of Suicidal Ideation, Suicide Attempt and Suicide in Children and Young People in Care and Non-Care Populations: Systematic Review and Meta-Analysis of Prevalence*, 82 CHILD. & YOUTH SERVS. REV. 122, 125, 128 (2017).

health care.<sup>55</sup> This is especially acute for LGBTQ+ youth, who are overrepresented in the foster care system: about 30% of youth in foster care are LGBTQ+ (as compared to 11% of youth not in foster care) and about 5% are transgender (as compared to 1% of youth not in foster care).<sup>56</sup> LGBTQ+ foster youth have experienced the trauma of abuse or neglect, family separation, or both; once in care, they often experience rejection, violence, and discrimination from child welfare staff, caregivers, or other youth.<sup>57</sup> Transgender foster youth's access to needed medical care is therefore key to their well-being.<sup>58</sup>

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<sup>55</sup> Erin P. Hambrick et al., *Mental Health Interventions for Children in Foster Care: A Systematic Review*, 70 CHILD. & YOUTH SERVS. REV. 65, 67–68 (2016).

<sup>56</sup> Capacity Bldg. Ctr. for States, *Supporting and Affirming LGBTQ+ Children, Youth, and Families*, CHILD.'S BUREAU EXPRESS (July/Aug. 2022), <https://cbexpress.acf.hhs.gov/article/2022/july-august/supporting-and-affirming-lgbtq-children-youth-and-families/4118feed1be01550bca18512f54bcba7>.

<sup>57</sup> HUM. RTS. CAMPAIGN, LGBTQ YOUTH IN THE FOSTER CARE SYSTEM 2–3 (last visited Aug. 29, 2024), <https://assets2.hrc.org/files/assets/resources/HRC-YouthFosterCare-IssueBrief-FINAL.pdf>.

<sup>58</sup> CHRISTINA WILSON REMLIN ET AL., SAFE HAVENS: CLOSING THE GAP BETWEEN RECOMMENDED PRACTICE AND REALITY FOR TRANSGENDER AND GENDER-EXPANSIVE YOUTH IN OUT-OF-HOME CARE, LAMBDA LEGAL 32–35 (2017), [https://legacy.lambdalegal.org/sites/default/files/publications/downloads/tgnc-policy-report\\_2017\\_final-web\\_05-02-17.pdf](https://legacy.lambdalegal.org/sites/default/files/publications/downloads/tgnc-policy-report_2017_final-web_05-02-17.pdf); ALEX CITRIN ET AL., SAFE HAVENS II: INTERACTIVE REPORT, LAMBDA LEGAL (Aug. 2024), <https://lambdalegal.org/safe-havens-report/safe-havens-full-report/>.

Youth in the juvenile legal system are also particularly vulnerable and are two to three times more likely to die by suicide than their peers.<sup>59</sup> Transgender youth's experiences of housing instability, family rejection, and involvement in the child welfare system increase their risk of entering the juvenile legal system.<sup>60</sup> While the number of transgender youth in the juvenile legal system is unknown, an estimated 20% are LGBTQ+, the vast majority of whom are LGBTQ+ youth of color.<sup>61</sup> In detention, LGBTQ+ youth are particularly at risk of discrimination, harassment, and violence by both staff and other youth.<sup>62</sup> Transgender youth are often housed in facilities according to their sex assigned at

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<sup>59</sup> Donna A. Ruch et al., *Characteristics and Precipitating Circumstances of Suicide Among Incarcerated Youth*, 58 J. AM. ACAD. CHILD & ADOLESCENT PSYCH. 514, 514 (2019).

<sup>60</sup> Jax Kynn et al., *Structural Vulnerabilities and Over-Criminalization of LGBTQ + Youth in the California Justice System*, 160 CHILD. & YOUTH SERVS. REV., May 2024, at 1, 2.

<sup>61</sup> Angela Irvine & Aisha Canfield, *The Overrepresentation of Lesbian, Gay, Bisexual, Questioning, Gender Nonconforming and Transgender Youth Within the Child Welfare to Juvenile Justice Crossover Population*, 24 J. GENDER, SOC. POL'Y & L. 243, 248 (2016); CTR. FOR AM. PROGRESS ET AL., UNJUST: LGBTQ YOUTH INCARCERATED IN THE JUVENILE JUSTICE SYSTEM 2 (2017), <https://www.lgbtmap.org/file/lgbtq-incarcerated-youth.pdf>.

<sup>62</sup> JEROME HUNT & AISHA MOODIE-MILLS, THE UNFAIR CRIMINALIZATION OF GAY AND TRANSGENDER YOUTH AN OVERVIEW OF THE EXPERIENCES OF LGBT YOUTH IN THE JUVENILE JUSTICE SYSTEM, CTR. FOR AM. PROGRESS 6–7 (2012), [https://cdn.americanprogress.org/wp-content/uploads/issues/2012/06/pdf/juvenile\\_justice.pdf](https://cdn.americanprogress.org/wp-content/uploads/issues/2012/06/pdf/juvenile_justice.pdf); Jennifer Watson et al., *Transgender Youth, Challenges, Responses, and the Juvenile Justice System: A Systematic Literature Review of an Emerging Literature*, 24 YOUTH JUST. 88, 103–04 (2024).

birth.<sup>63</sup> Staff also frequently separate LGBTQ+ youth from their peers and place them in solitary confinement or isolation,<sup>64</sup> a practice that drastically increases a youth's risk of suicide.<sup>65</sup> The Ban exacerbates these risks for youth involved in the juvenile legal system by cutting them off from necessary medical care.

Low-income transgender youth, for whom cost is often a substantial barrier to accessing health care, will also suffer disproportionately if the Ban is enacted.<sup>66</sup> If the Ban is enforced, many low-income transgender youth and their families will be unable to afford the time and expense of traveling to another state to access the medical care they need.<sup>67</sup> According to a study by the Campaign for Southern

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<sup>63</sup> Watson, *supra* note 62, at 102.

<sup>64</sup> *Id.* at 102, 105; EMMA STAMMEN & NAZGOL GHANDNOOSH, INCARCERATED LGBTQ+ ADULTS AND YOUTH, THE SENTENCING PROJECT 10 (2022), <https://sentencingproject.org/app/uploads/2022/10/Incarcerated-LGBTQ-Youth-and-Adults.pdf>.

<sup>65</sup> NAT'L COMM'N ON CORR. HEALTH CARE, SOLITARY CONFINEMENT (ISOLATION) 2 (2016), <https://www.ncchc.org/wp-content/uploads/Solitary-Confinement-Isolation.pdf>.

<sup>66</sup> Cathren Cohen et al., *State Efforts to Deny Transgender Youth Gender-Affirming Care Hit Low-Income and At-Risk Youth the Hardest*, NAT'L HEALTH L. PROGRAM (Mar. 3, 2022), <https://healthlaw.org/state-efforts-to-deny-transgender-youth-gender-affirming-care-hit-low-income-and-at-risk-youth-the-hardest/>.

<sup>67</sup> *Id.*; see also Claire Rush, *Idaho's Ban on Youth Gender-Affirming Care Has Families Desperately Scrambling for Solutions*, AP NEWS, Apr. 18, 2024, <https://apnews.com/article/idaho-transgender-affirming-care-supreme-court-f21e62b9ef8b06ed4ecd301bc4531dfd>.

Equality, healthcare bans have exponentially increased the distance families of transgender youth must drive to obtain needed care, particularly for transgender youth living in the Southern United States.<sup>68</sup> It now takes 3.2 hours (208 miles) of one-way driving time for transgender and nonbinary youth located in Nashville, Tennessee, to get to the closest clinic that serves transgender youth.<sup>69</sup>

Similarly, rural transgender youth will be significantly impacted by healthcare bans. One in six transgender Americans live in rural areas, where healthcare providers, particularly those offering care for transgender youth, are scarce.<sup>70</sup> Transgender people in rural areas face significant health disparities, economic insecurity, and discrimination, and already report traveling significant distances to receive health care.<sup>71</sup> The Ban will force many rural transgender youth to choose between undertaking significant expenses to cross state lines to receive care, or forgoing care altogether.

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<sup>68</sup> EMMA CHINN ET AL., HOW FAR? THE EXTREME TRAVEL BURDEN OF BANS ON MEDICALLY NECESSARY CARE FOR TRANSGENDER YOUTH, CTR. FOR SOUTHERN EQUAL. 6 (July 2024), <https://bit.ly/howfarjuly>.

<sup>69</sup> *Id.*

<sup>70</sup> MOVEMENT ADVANCEMENT PROJECT, WHERE WE CALL HOME: TRANSGENDER PEOPLE IN RURAL AMERICA 1–2, 9–10 (2019), <https://www.lgbtmap.org/file/Rural-Trans-Report-Nov2019.pdf>.

<sup>71</sup> Pamela B. DeGuzman et al., *Impact of Telemedicine on Access to Care for Rural Transgender and Gender-Diverse Youth*, 267 J. PEDIATRICS, Apr. 2024, at 1; Megan E. Gandy et al., *Trans\*Forming Access and Care in Rural Areas: A Community-Engaged Approach*, INT'L. J. ENV'T. RSCH. & PUB. HEALTH, Dec. 2, 2021, at 1, 5–6.

The Ban will also have stark effects on transgender youth experiencing homelessness, who are even more unlikely to have the resources to travel great distances to access necessary medical care. According to research published by The Trevor Project in February 2022, transgender and nonbinary youth reported higher rates of homelessness and housing instability (35% for nonbinary youth, 38% for transgender girls, 39% for transgender boys) than other lesbian, gay, and bisexual youth (23%).<sup>72</sup> A high rate (34%) of Black transgender and nonbinary young people reported experiencing housing instability or homelessness.<sup>73</sup> Homelessness and housing instability are associated with a number of safety risks: LGBTQ+ youth who reported experiencing housing instability or homelessness reported higher rates of depression, anxiety, self-harm, and suicidal ideation compared to LGBTQ+ youth who did not report any housing instability.<sup>74</sup> The Ban's further restrictions on medical care will compound these risks by increasing the travel distances necessary to obtain care.

Many transgender youth, especially people of color, those experiencing housing instability, those with low incomes, those living in rural areas, and

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<sup>72</sup> THE TREVOR PROJECT, HOMELESSNESS AND HOUSING INSTABILITY AMONG LGBTQ YOUTH 12 (Feb. 2022), <https://www.thetrevorproject.org/wp-content/uploads/2022/02/Trevor-Project-Homelessness-Report.pdf> [hereinafter TREVOR PROJECT HOMELESSNESS REPORT].

<sup>73</sup> TREVOR PROJECT BRIEF ON BLACK TRANSGENDER YOUTH, *supra* note 9, at 2.

<sup>74</sup> TREVOR PROJECT HOMELESSNESS REPORT, *supra* note 72, at 4–6.

transgender foster youth and youth involved in the juvenile legal system, already face increased obstacles to accessing healthcare services. The Ban creates additional substantial barriers to medical care that will worsen existing inequities for transgender youth.

While the families of many transgender and nonbinary young people will attempt to relocate in order to maintain access to necessary medical care—according to The Trevor Project’s 2024 National Survey, 45% of transgender and nonbinary young people reported that they or their family have considered moving to a different state because of LGBTQ+-related politics and laws like the Ban<sup>75</sup>—this is not accessible to many transgender youth. Transgender youth in the foster care or in the juvenile legal system have no control over where they live or where the state places them. These young people would be unable to relocate or travel to another state to access this life-saving medical care. Likewise, families with lower incomes or fewer resources are significantly less likely to have the means to relocate to avoid these types of bans. Even for those who can, the stress from uprooting their lives, often requiring finding new homes, jobs, medical support teams, and severing deeply-rooted community connections, can be seriously detrimental to the mental health of all involved, particularly transgender young people who often blame themselves for the stark changes in their families’ lives.

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<sup>75</sup> 2024 TREVOR PROJECT NATIONAL SURVEY, *supra* note 22, at 11.



**CONCLUSION**

For the foregoing reasons, *amici* urge this Court to reverse the judgment of the U.S. Court of Appeals for the Sixth Circuit.

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