

Trans Young People, Families and Advocates Tell Texas Supreme Court to Protect Them from State Persecution



(Austin, TX) Young trans Texans, their families, and advocacy organizations shared their stories with the Texas Supreme Court in a ["friend of the court" brief](#) filed by the Transgender Legal Defense & Education Fund (TLDEF), Baker McKenzie LLP and Blank Rome LLP. *Amici* filed in support of families seeking to block Governor Abbott's Directive ordering the investigation and criminalization of adults supporting gender-affirming care in [Doe v. Abbott](#).

The *amicus* brief asks the state's highest court to affirm the lower court's injunction, which stopped the state's enforcement of a transphobic directive that exceeds the governor's legal authority and "violates the sacred rights of Texas parents and their transgender children." *Amici* rely on the temporary injunction in place to prevent irreparable harm to them through the loss of lifesaving, medically necessary health care.

In the brief, families and organizations share the painful stories of how the Governor's order has already harmed them and those they love.

Parents A. and M. (names withheld for their protection) told the court that their child has come to believe removal by DFPS is imminent, asking "when I go to foster care, will they have macaroni and cheese?" and "when I get put up for adoption, what does that mean?" before admitting they are resigned in the fear that "no one would adopt me because I am trans." These conversations are devastating to the family, causing A. and M. to consider moving out of Texas, the only place their child has ever lived.

"We are so proud of the courageous young people and their families that have told their stories, here, but also so horrified by all that they have gone through, in only a matter of weeks, due to this horrifically cruel policy," said **Emmett Schilling, Executive Director of Transgender Education Network of Texas (TENT)**. "We are depending on the Supreme Court to uphold the law and not allow our state's leaders to abuse their administrative power."

Amici are Texan transgender youth harmed by the Governor's Directive because they seek to obtain medically necessary gender-affirming care, family members seeking to provide gender-affirming care to a transgender loved one, two Texas non-profit organizations serving these families and two young adult Texans who received gender confirming care as teens.

"Parents, young people and advocates are still out here demanding the state protect our children instead of attacking them; though we are all traumatized and weathered by this constant barrage of hateful policies, we will continue our work to defend the rights of transgender children and their loving families during this harrowing time," said **Ricardo Martinez, CEO of Equality Texas**. "One of our most active families has had to move out of state, telling me they are 'tired of fighting this hard' just to exist, here, and that their child's mental health has to come first over everything -- that's not abusing your child, that is loving them."

The effect of this sort of political attack on transgender youth and their families is readily apparent. In 2021, The Trevor Project, a national non-profit organization that provides a toll-free hotline for crisis intervention and suicide prevention for LGBTQ+ youth, reported that more than 50% of transgender and nonbinary youth had seriously considered suicide, and 75% had reported experiencing generalized anxiety.

"For the sake of their health, security, and freedom from criminalization, the status quo prior to the issuance of the Governor's Directive must be maintained," the brief states.

Attorneys for *amici* argue that the Court of Appeals properly exercised its discretion under Rule 29.3 to accomplish this, and its Order must be upheld to protect Texans from imminent and real harm.

"As the Department of Justice has just reminded states' Attorneys General, denial of medically-necessary care is a violation of the Constitution and federal law," said **David Brown, Legal Director at Transgender Legal Defense and Education Fund (TLDEF)**. "As our amicus brief outlines, it is not only unconstitutional but unconscionable, making parents choose between denying their children the care on which they rely, which could have irreversible negative health outcomes, including risk of death, or be forced to leave the state, effectively becoming refugees."

Gov. Greg Abbott's February 22, 2022 order:

- contravenes and disregards the considered judgment of every major medical association and parents and doctors statewide, grossly misclassifying the use of those procedures as "child abuse";
- purports to require Texas Department of Family and Protective Services ("DFPS") to investigate any instances of gender-affirming care being given to minors; and
- purports to give DFPS authority to coordinate with other state agencies in pursuing "criminal penalties" against any parent of a minor receiving such care, anyone providing such care or any "member of the public" who fails to report it.

Pro bono partners were vital to the effort to get this brief completed with the urgency and rapidity required by the dire situation that our clients in Texas face.

"We are proud to represent Equality Texas and the Transgender Education Network of Texas on this critical matter as these organizations continue to advocate for and protect the rights of transgender Texans and their families," said **Cassandra Mott, Partner, Blank Rome LLP**. "It is clear that the state's directive silences families and other caregivers of transgender children, deprives them of their rights to determine the appropriate medically necessary care for their children, and places the physical and mental well-being of transgender children and young adults at risk."

"Our Baker McKenzie pro bono team recognized the immediate need to amplify the voices of the children and families affected by the state's recent directive," said **Rick Hammett, partner at Baker McKenzie**. "We were proud to lend our time, energy and legal expertise to this critical amicus brief, which articulates the tremendous and irremediable harm our clients are facing."

Key quotes from the brief:

- "Providing gender-affirming care to transgender youth is most often a family's thoroughly considered expression of love, support, and acceptance. It promotes the welfare, health, and happiness of transgender children, their families, and their communities."
- "Stunning in its scope, the Governor's Directive does not cite to any evidence that the provision of [gender-affirming] healthcare is actually child abuse, nor does it include any exception for emergency medical care."
- "Amici know firsthand both the vital importance of accessing gender affirming care and the risks and harms of being forced to live with untreated gender dysphoria as a young person."
- "[T]he Governor's Directive by itself has effectively silenced parents of transgender children from exercising their rights to participate in the democratic process. Equality Texas and TENT, working with other Texas LGBTQ+ groups, have established a network of support and resources for transgender, nonbinary and intersex students and their families.... TENT estimates it has lost 10–15% of the families who previously provided testimony to, or met one-on-one with members of, the state legislature, and who spoke publicly about the importance to Texas youth of gender-affirming care and inclusive legislative and regulatory policies. As a result of the Governor's Directive, these families have either moved out of Texas or have decided they are now unwilling to continue engaging in public advocacy."
- "Simply put, the Governor's Directive is wrong in spirit and on its face."

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