



Supreme Court Allows Idaho to Enforce Law Blocking Sex-Change Procedures for Minors

Description

US : The U.S. Supreme Court issued an emergency order late on April 15 allowing Idaho to resume enforcing a state ban on sex-change-related procedures for minors after the law was blocked by lower courts.

At least five of the six conservative justices voted to restore the state law, while all three liberals voted against doing so.

It was unclear at press time how Chief Justice John Roberts, a moderate conservative, voted, if he voted at all.

U.S. District Court Judge Lynn Winmill, who was appointed by President Bill Clinton, found in December 2023 that Idaho could not enforce the statute while the litigation remained pending.

Idaho appealed to the U.S. Court of Appeals for the 9th Circuit, which affirmed Judge Winmill's temporary injunction blocking the law, but has yet to issue a final ruling in the case.

Although the decision took the form of an unsigned order, [there were multiple](#) opinions (pdf) issued by various justices. Justice Neil Gorsuch issued an opinion concurring in the decision to reinstate the state law. Justices Clarence Thomas and Samuel Alito concurred.

Justice Brett Kavanaugh filed an opinion concurring in the decision to restore the state law. Justice Amy Coney Barrett concurred. Justice Ketanji Brown Jackson issued a dissenting opinion that was joined by Justice Sonia Sotomayor.

The Vulnerable Child Protection Act (VCPA), which Idaho Gov. Brad Little (R) signed in 2023, criminalizes physicians prescribing puberty-blocking drugs, hormone therapy, and selected surgeries for minors who identify to be transgender. Fines and prison terms can be imposed.

“In signing this bill, I recognize our society plays a role in protecting minors from surgeries or treatments that can irreversibly damage their healthy bodies,” the governor said at the time.

“However, as policymakers, we should take great caution whenever we consider allowing the government to interfere with loving parents and their decisions about what is best for their children.”

[At least 22 states](#) have passed legislation banning transgender surgery for minors, according to the Movement Advancement Project. On the other hand, 14 states and the District of Columbia have passed legislation protecting youth access to transgender health care, according to the group.

The emergency application in the case, *Labrador v. Poe*, was filed with the Supreme Court on Feb. 16.

Idaho Attorney General Raul Labrador (R) said at the time: “I’ve witnessed firsthand the devastating consequences of drugs and procedures used on children with gender dysphoria, and it’s a preventable tragedy.”

“The state has a duty to protect and support all children, and that’s why I’m proud to defend Idaho’s law that ensures children are not subjected to these life-altering drugs and procedures.

“Those suffering gender dysphoria deserve love, support, and medical care rooted in biological reality. Denying the basic truth that boys and girls are biologically different hurts our kids. No one has the right to harm children, and, thankfully, we as the state have the power—and duty—to protect them,” he said.

Idaho had urged the Supreme Court in a brief to erase the lower court injunctions because they “violate controlling precedent on the limits of equitable remedies,” which leaves “vulnerable children subject to procedures that even [the] Plaintiffs’ experts agree are inappropriate for some of them.”

“Every day Idaho’s law remains enjoined exposes vulnerable children to risky and dangerous medical procedures and infringes Idaho’s sovereign power to enforce its democratically enacted law,” the document stated.

“These procedures have lifelong, irreversible consequences, with more and more minors voicing their regret for taking this path,” it continued. The district court’s “sweeping injunction hamstringing Idaho’s ability to protect its citizens from well-recognized harms.”

Idaho argued that the injunction against the law was overly broad and should apply only to the two plaintiffs—two unidentified transgender teenagers—involved in the original lawsuit.

In its new order, the Supreme Court ruled that the state law shall apply to all of Idaho except for the two teenagers who brought the lawsuit. They may continue to avail themselves of the so-called gender-affirming treatments that they seek.

The justices were divided over the extent to which individual judges should be able to block a law even when only a small number of plaintiffs are challenging it.

In his opinion, Justice Gorsuch expressed his distaste for broad injunctions.

“In recent years, certain district courts across the country have not contented themselves with issuing equitable orders that redress the injuries of the plaintiffs before them, but have sought instead to govern an entire State or even the whole Nation from their courtrooms,” he wrote.

In this case, the federal district court’s “universal” injunction made a narrow dispute between a few people focused on one aspect of a law “into a far more consequential referendum on the law’s every provision as applied to anyone.”

In her opinion, Justice Jackson acknowledged that universal injunctions are “contested and difficult” but wrote that she would “not attempt to take them on in this emergency posture, even in a case that actually raised the issue.”

“This Court is not compelled to rise and respond every time an applicant rushes to us with an alleged emergency, and it is especially important for us to refrain from doing so in novel, highly charged, and unsettled circumstances.”

Justice Jackson also wrote that the Supreme Court should usually defer to courts of appeal on such emergency applications. Justices Gorsuch and Kavanaugh wrote that such a presumption could be problematic.

The American Civil Liberties Union condemned the Supreme Court decision, calling it an “awful result for transgender youth and their families across the state.” “Today’s ruling allows the state to shut down the care that thousands of families rely on while sowing further confusion and disruption.”

Attorney General Labrador hailed the new ruling, which he said will make sure minors won’t be exposed to life-changing procedures and drugs.

“Defying the basic truth that boys and girls are biologically different hurts our kids,” he said. The Supreme Court may also soon take up bans on sex-change-related procedures for minors in Kentucky and Tennessee.

By Matthew Vadum

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