Supreme Court Allows States to Ban Medical Treatment for Transgender Minors

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United States v. Skrmetti, 145 S. Ct. 1816 (June 18, 2025)

The U.S. Supreme Court has been no stranger to contentious cases involving equal protection, LGBTQ+ rights, and medical issues in recent years. *See, e.g.*, *Obergefell v. Hodges*, 576 U.S. 644 (2015); *Bostock v. Clayton Cnty., Georgia*, 590 U.S. 644 (2020); *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022). The Supreme Court's decision in *United States v. Skrmetti* was no exception. But where prior decisions often expanded protections for LGBTQ+ individuals, the *Skrmetti* court upheld Tennessee's ban on medical treatments for transgender minors under simple rational basis review.

In March 2023, Tennessee followed numerous states in restricting sex transition treatments for minors and enacted the Prohibition on Medical Procedures Performed on Minors Related to Sexual Identity, or "SB1." The law prohibits various surgical and medical procedures for the purpose of "[e]nabling a minor to identify with, or live as, a purported identity inconsistent with the minor's sex," or "[t]reating purported discomfort or distress from a discordance between the minor's sex and asserted identity." Tenn. Code Ann. § 68–33–103(a).

The plaintiffs—three transgender minors, their parents, and a doctor—sued to stop the enforcement of SB1, asserting that it violates the Equal Protection Clause of the Fourteenth Amendment. The United States intervened in the case on the plaintiffs' behalf. The plaintiffs then obtained a preliminary injunction from the district court enjoining SB1's ban on medication treatments, such as puberty blockers and hormones. In making its decision, the district court held that the plaintiffs did not have standing to challenge the law's ban on surgical procedures. The Sixth Circuit Court of Appeals reversed, holding both that the law did not make classifications

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based on sex (and so was not subject to heightened scrutiny) and that transgender individuals as a group are not a "suspect class" (for which a more rigorous standard of review would apply).

The Supreme Court reviewed the Sixth Circuit's decision and affirmed. Chief Justice Roberts, writing for the 6-3 majority, first held that SB1 is *not* subject to heightened scrutiny under the Equal Protection Clause. Distinguishing SB1 from prior sex-based classifications subject to heightened scrutiny, the majority held that SB1 classifies people and treatments based on (1) age and (2) medical use, thus subjecting the law to the more lenient rational basis review.

As to the former, the Supreme Court reasoned that SB1 bans the relevant medical treatments only for individuals under 18. As to the latter, the majority stated that the law banned the defined treatments only to treat gender dysphoria and related conditions prevalent in transgender individuals, which do not, in the Supreme Court's view, "turn on sex." In the process, the Supreme Court emphasized that "mere reference to sex is sufficient to trigger heightened scrutiny." Turning to the crux of the dispute, the majority further reasoned that the application of SB1's prohibitions turned on the category of medical treatment—administration of the relevant drugs was permissible to treat precocious puberty or a congenital defect, but not gender dysphoria or gender-identity disorder—which themselves did not "turn on sex." According to the Supreme Court, "a prohibition on the prescription of puberty blockers and hormones to '[e]nabl[e] a minor to identify with, or live as, a purported identity inconsistent with the minor's sex,' is simply a prohibition on the prescription of puberty blockers and hormones to treat gender dysphoria" and related medical conditions that afflict transgender individuals.

The Supreme Court successfully avoided the question of whether transgender individuals are a suspect or "quasi-suspect" class whose disparate treatment under the law triggers additional scrutiny because it held that SB1's classifications—based on age and medical conditions—were simply not based on transgender status. Because transgender individuals could still receive the medical treatments in question to treat conditions like precocious

puberty and congenital defects, in the majority's view, SB1's classifications are not based on transgender status. Employing a "relaxed" review of the law under rational basis test, which only requires "any reasonably conceivable state of facts that could provide a rational basis for the classification," the Supreme Court held that SB1 met this standard. It relied on the law's concern for the risk of irreversible sterility of the covered treatments and the law's asserted "lack of support" for such treatment by "high-quality long-term studies." Because, according to Chief Justice Roberts, it is not the Supreme Court's job to adjudicate the validity of the risks associated with the medical treatments in question, the "wide discretion" afforded to states on these issues made the law permissible.

Justice Sotomayor dissented, with Justices Kagan and Jackson joining. The dissent argued that SB1 should have been subject to intermediate or heightened scrutiny because it employed sex-based classifications. Pointing out that access to puberty blockers "can be a question of life or death" for transgender adolescents (given the estimated 40% rate of suicide attempts among the demographic), and citing Tennessee's explicit interest to "encourag[e] minors to appreciate their sex," the dissent explained that "SB1 allows physicians to help align adolescents' physical appearance with their gender identity (despite associated risks) if it is consistent with their sex identified at birth, but not if inconsistent." In the dissent's view, SB1 is as indefensible as sex-stereotyping (which is no longer permitted under federal civil rights laws), or a law forbidding a child from attending a house of worship inconsistent with their upbringing (even if such a law is designed to make a child "appreciate" the familial religion), or laws prohibiting interracial marriage (about which proponents at the time asserted that the "scientific evidence" was in doubt, just as the Tennessee legislature asserted about SB1). Therefore, Justice Sotomayor argued, the Supreme Court should have reviewed SB1's classifications and prohibitions with higher scrutiny.

Key Takeaways

- Laws that classify people based on age and medical treatment purposes are subject only to rational basis review, even if they also address sex-related characteristics.
- It remains an open question whether transgender individuals are a suspect or "quasi-suspect" class triggering heightened review in laws affecting their status or abilities in society (though several members of the Supreme Court clearly think not).

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