

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

STATE OF TENNESSEE, et al.,	)	
	)	
<i>Plaintiffs,</i>	)	
	)	Civil Action No. 1:24-cv-161-LG-BWR
v.	)	
	)	
ROBERT F. KENNEDY, JR., in his official ca-	)	
capacity as Secretary of the United States Depart-	)	
ment of Health and Human Services, et al.	)	
	)	
<i>Defendants.</i>	)	

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**PLAINTIFF STATES' NOTICE OF SUPPLEMENTAL AUTHORITY  
IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT**

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Plaintiff States respectfully notify the Court of recent authority that supports their pending motion for summary judgment (Doc. 61) seeking relief from the U.S. Department of Health and Human Services' ("HHS") final rule titled *Nondiscrimination in Health Programs and Activities*, 89 Fed. Reg. 37,522 (May 6, 2024) ("2024 Rule").

In *United States v. Skremetti*, enclosed as **Exhibit A**, the Supreme Court held that Tennessee's law prohibiting gender-transition medical interventions for minors (SB1) does not draw classifications based on sex. 145 S. Ct. 1816, 1829-31 (2025). The Court explained that SB1 prohibits the administration of "puberty blockers or hormones to treat gender dysphoria, gender identity disorder, or gender incongruence" to *all* minors, regardless of their sex. *Id.* at 1831. And SB1 permits their administration to minors of both sexes for a qualifying diagnosis, such as a "congenital defect, precocious puberty, disease, or physical injury." *Id.* The law thus turns only on "age" and "medical use." *Id.* at 1833.

The Court rejected the argument that using puberty blockers or hormones to treat gender dysphoria is the "same treatment[]" as using those drugs to treat *other* diseases or conditions. *Id.* at

1830. The Court recognized, for instance, that a girl who takes puberty blockers to treat her gender incongruence “receives a different medical treatment” than a boy who takes puberty blockers to treat his precocious puberty. *Id.*; see States’ MSJ Br. 11 (asserting that there is no discrimination when States take biological differences into account). Thus, “SB1 does not exclude any individual from medical treatments on the basis of [sex or] transgender status but rather removes one set of diagnoses . . . from the range of treatable conditions.” *Skermetti*, 145 S. Ct. at 1831, 1833.

The Court also declined to consider whether the reasoning of *Bostock v. Clayton County*, 590 U.S. 644 (2020), “reaches beyond the Title VII context.” *Skermetti*, 145 S. Ct. at 1834; see Mem. Op. & Order, ECF 29, at 22 (finding “no basis for applying *Bostock*’s Title VII analysis to Section 1557’s incorporation of Title IX”); States’ MSJ Br. 3 (noting that *Bostock* was HHS’s lone justification for the 2024 Rule’s gender-identity mandates).

Nonetheless, the Court observed that *Bostock* would not alter its analysis since “changing a minor’s sex or transgender status does not alter the application of SB1.” *Skermetti*, 145 S. Ct. at 1834. To illustrate: Under SB1, a healthcare provider cannot administer testosterone to a girl for gender dysphoria. *Id.* If you change the minor’s sex from female to male, SB1 still forbids the minor from receiving testosterone due to the lack of a qualifying diagnosis. *Id.* But if the minor does have a qualifying diagnosis, the minor could obtain testosterone “regardless of [the minor’s] sex or transgender status.” *Id.* Thus, neither a minor’s sex nor transgender status is the “but-for cause” of his inability to obtain puberty blockers or cross-sex hormones under SB1. *Id.* at 1835.

The Court further reaffirmed that States have “wide discretion to pass legislation in areas where there is medical and scientific uncertainty”—as is the case with gender-transition medical interventions. *Id.* at 1836-37 (citing *Gonzales v. Carhart*, 550 U.S. 124, 163 (2007)); see States’ MSJ Br. 13-14 (arguing that the 2024 Rule unlawfully interferes with States’ traditional authority to regulate the practice of medicine).

Dated: July 3, 2025

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 3, 2025, a true and correct copy of the foregoing document was served via the Court's electronic filing system, which sent notice of filing to all counsel of record.

/s/ Steven J. Griffin

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