

Judges can overrule parents on treatment for transgender children, Arizona Supreme Court rules

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Arizona judges can require parents to provide counseling, therapy and other expert help to children who may be transgender, even if one parent doesn't support treatment, [the state's highest court ruled Thursday](#).

But the courts can only intervene when a child would be "at risk for physical danger or significantly impaired emotionally" without access to those services — a higher standard than the "best interest" test often used in family-court cases.

The unanimous ruling partially overturns an [April 2018 Appeals Court decision](#) that highlighted the challenges of mediating battles between parents who differ on how to handle kids exploring their gender identities.

As of last year, [clashes over how to support those children had revived custody fights in nearly 10 other states](#).

"This is an important decision that will provide family courts with more guidance about when to issue orders limiting (the authority of a parent who has legal custody) and about the need to tailor such orders carefully," said attorney Taylor Young, who argued the case before the Supreme Court.

"Family court judges must be able to protect children from harm."

Complex case began in 2013

Thursday's decision followed a years-long court battle involving a divorced Arizona couple, identified in court documents as Paul E. and Courtney F. to protect the privacy of their three children.

The couple initially shared custody of the kids and had equal parenting time. But after the mother in 2013 began allowing their male child — identified only as "L." — to wear a skirt to school, the father took his ex-wife to court.

The mother indicated L. had "long demonstrated a preference for stereotypically 'female' items" at that point and "would wear female clothing at home." The father instead argued the mother was "pushing a female gender identification on L." and asked for sole legal custody and for L. to live with him full-time, which he ultimately won.

In the meantime, a family-court judge implemented sweeping orders forbidding the mother to discuss gender-related issues at home; dress L. in female clothing; let the child have any "female-oriented" toys; or refer to L. as "her," "she" or a "girl."

The injunctions were described as temporary, but they remained in place for more than two years — despite a psychologist, physician and psychotherapist independently diagnosing L. with

gender dysphoria. The clinical term refers to lasting distress caused by a conflict between the gender a person is assigned based on anatomy and the gender that person feels.

The American Association of Pediatrics [recommends providing "comprehensive, gender-affirming, and developmentally appropriate health care" in "a safe and inclusive clinical space" to children with the diagnosis](#), as well as "family-based therapy and support" for parents and siblings.

It notes that children with gender dysphoria face an increased risk of depression, anxiety and suicide when they face rejection from their families or feel they have no place to authentically explore their identities.

Indeed, more than a year after the court began policing L.'s gender expression at home, court records show the child "made statements about dying" and "threatened or engaged in self-harm."

Supreme Court: Intervention not always 'micromanagement'

The family-court judge tried to minimize danger to L. by mandating treatment with a specific counselor and gender expert, and by prohibiting the parents from discussing gender-identity issues with the child.

But the Appeals Court last year overturned those orders, calling the limitations a "severe micromanagement of Mother and Father's parenting" in its ruling.

In its Thursday opinion, the Supreme Court generally agreed the family-court judge had overstepped, noting that while the father initially resisted L.'s desire to "gender explore," he later agreed to therapy for both L. and himself.

"Absent evidence demonstrating that Father would choose an unqualified or ineffective therapist or gender expert, (the law) did not authorize the court to select a specific therapist and expert," the ruling says.