

# Judge refuses to block Florida law restricting transgender adult care

- News Service of Florida

TALLAHASSEE — Pointing to a recent appellate court ruling in an Alabama case, a federal judge on Monday issued an order refusing to block a new Florida law making it more difficult for transgender adults [to access hormone therapy and surgeries](#).

U.S. District Judge Robert Hinkle issued the order after indicating during a Sept. 1 hearing that he would not issue a preliminary injunction against the law, passed by the Republican-controlled Legislature this spring and championed by Gov. Ron DeSantis.

The law requires patients diagnosed with gender dysphoria to sign informed-consent forms crafted by state medical boards. Also under the law, only physicians — not nurse practitioners — are allowed to order hormone therapy. In addition, the law bans the use of telehealth for new prescriptions.

The law (SB 254) also barred doctors from [ordering gender-affirming care for children](#) but allowed minors already receiving such treatment to continue under certain conditions.

Parents of transgender children filed a lawsuit challenging the restrictions, and Hinkle in June [blocked a ban on the use of puberty blockers and hormones](#) to treat children diagnosed with gender dysphoria, calling the prohibition “an exercise in politics, not good medicine.” The state is appealing Hinkle’s ruling.

The lawsuit was revised in July to add several adults as plaintiffs. It contends the new restrictions on adults have erected “unnecessary barriers” to care and imposed “medically unsupported requirements” on trans people. The lawsuit alleges that the law and resulting rules adopted by the state Board of Medicine and the Board of Osteopathic Medicine have created a “crisis of availability of care” for trans adults.

But an August ruling by a three-judge panel of the 11th U.S. Circuit Court of Appeals in an Alabama case changed the legal landscape on transgender issues, Hinkle indicated Monday. A full trial in the Florida case is slated to begin Nov. 13.

“In short, the adult plaintiffs have not shown they will suffer irreparable harm, between now and the date of a final judgment, caused by any part of the statute or rules as to which the plaintiffs’ challenge is likely to succeed on the merits,” Hinkle wrote in Monday’s three-page ruling.

The 11th U.S. Circuit Court of Appeals hears cases from Florida, Alabama and Georgia. The panel decision in a case known as Eknes-Tucker v. Governor of Alabama reversed a judge’s ruling that blocked a law banning gender-affirming care for minors.

Writing for the panel, Judge Barbara Lagoa relied in part on a U.S. Supreme Court decision last year overturning *Roe v. Wade*. Courts “must look to whether the right is ‘deeply rooted in (our) history and tradition’” when weighing constitutional rights, Lagoa wrote. The use of gender-affirming “medications — let alone for children — almost certainly is not ‘deeply rooted’ in our nation’s history and tradition,” Lagoa wrote.

“Absent a constitutional mandate to the contrary, these types of issues are quintessentially the sort that our system of government reserves to legislative, not judicial, action,” she added.

Hinkle’s ruling Monday said the Florida adult plaintiffs’ “likelihood of success on the merits is

significantly lower now than it was prior to” last month’s appellate decision.

“At oral argument on the current motion, the plaintiffs asserted their claims survive *Eknes-Tucker*, including on the ground that the challenged statute and rules were motivated by discriminatory animus. Perhaps so. But in the motion and supporting memoranda, the plaintiffs did not discuss discriminatory animus or cite the relevant cases ...,” Hinkle wrote.

Adult plaintiffs in the lawsuit alleged that the law and the state medical boards’ rules to implement it had caused physicians to cancel gender-affirming surgeries and restricted access to hormone treatments.

But Hinkle’s ruling said that “the challenged statute and rules do not prohibit adults from obtaining treatments of the kind the plaintiffs seek.”

The judge noted that two plaintiffs won’t be able to obtain hormone treatment from their current health-care providers, who are nurse practitioners.

“But despite the plaintiffs’ contrary assertions, they may be able to obtain the treatment from others. Two other plaintiffs say their scheduled surgeries were canceled and that the surgeons said the challenged statute was the reason. But even if the plaintiffs’ testimony about this is not inadmissible hearsay — an unlikely proposition — the surgeons’ statements, without a further explanation, do not tie their decision to anything a preliminary injunction would cure. The record does not show that a preliminary injunction would affect the surgeons’ willingness to perform the surgeries at this time,” Hinkle wrote.

Attorneys for the plaintiffs said Tuesday that the case “is far from over.”

“The state’s restrictions on well-established health care in SB 254 serve no purpose other than to intentionally prevent transgender people from receiving the care they need. ... We will continue to take every legal step to challenge this law that takes away Floridians’ ability to make important decisions about their own lives and hands it over to the government instead,” a statement from the plaintiffs’ legal team said.

The plaintiffs are represented by GLBTQ Legal Advocates & Defenders, the National Center for Lesbian Rights, Southern Legal Counsel and the Human Rights Campaign Foundation.

During the November trial, the plaintiffs’ lawyers said they “intend to lay out the full evidence of the state’s deliberate targeting of transgender Floridians through the harmful, arbitrary and medically unjustified rules enacted in SB 254.”

Florida is among a number of GOP-led states taking steps to ban or restrict gender-affirming care, an issue that DeSantis has touted as he runs for president.

The DeSantis administration last year also prohibited Medicaid reimbursement for gender-affirming care for children and adults. Hinkle has ruled that the prohibition is unconstitutional, but the state is appealing the decision.