

United States v. Skrametti: Supreme Court Affirms State Ban Against Certain Medical Treatments for Transgender Minors

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On June 18, 2025, the Supreme Court [affirmed](#) a decision of the U.S. Court of Appeals for the Sixth Circuit, ruling that a Tennessee law “banning certain medical care for transgender minors” does not classify on the basis of sex or transgender status, and does not violate the Equal Protection Clause of the Fourteenth Amendment.

The Court’s decision arrives [amid widespread](#) public [debate](#) about [whether](#) certain medical treatments should be [available for transgender minors](#) to address discordance between a person’s [sex characteristics](#) and gender identity. A number of states have [passed laws](#) prohibiting specific treatments to treat conditions like gender dysphoria for minors, including puberty blocking medication (“puberty blockers”), hormones, and surgical procedures. Several states have asserted, among other things, that the treatments are too [experimental](#) and can have [potentially irreversible effects](#). Some parents of transgender minors, among others, have [argued](#) that these laws deny critical medical care to transgender minors and discriminate based on sex or transgender status in violation of the Equal Protection Clause of the Fourteenth Amendment. The Court in *Skrametti* [ruled](#) that Tennessee’s law did not classify based on sex or transgender status and was not subject to heightened scrutiny. Rather, the law made two classifications—based on age and medical use—subject to the deferential rational basis standard of review.

This Sidebar begins with a brief background on how courts approach challenges brought under the Equal Protection Clause, followed by an explanation of the split that developed among appellate courts regarding state laws that prohibit certain medical services for transgender minors. The Sidebar continues by examining the Supreme Court’s decision in *Skrametti*, including the majority, concurring, and dissenting opinions. Finally, the Sidebar concludes with some observations about potential implications of the decision and considerations for Congress.

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Equal Protection Background

The Fourteenth Amendment’s Equal Protection Clause [prohibits](#) states from denying individuals “the equal protection of the laws.” In the most general terms, states must not classify or differentiate among similarly situated individuals in a manner that violates this constitutional guarantee.

When analyzing an equal protection challenge, a court must first determine which legal standard to apply. The most deferential standard of equal protection review is [rational basis](#), under which a court will generally [uphold](#) a challenged classification as long as it is reasonably related to a legitimate government purpose. Courts [subject](#) classifications based on sex, however, to a more stringent standard—intermediate scrutiny. If intermediate scrutiny applies, the parties seeking to defend a sex-based classification must [show](#) an “exceedingly persuasive justification” or “important government objective” for classifying individuals based on sex and must demonstrate that the classification is “substantially related” to achieving that objective. (Laws that classify based on race, alienage, or national origin trigger [strict scrutiny](#) and will be upheld only if narrowly tailored to meet a compelling government interest.)

In equal protection challenges raised in another context—school restroom access—several [federal](#) appellate [courts](#) have concluded that laws prohibiting transgender individuals from access consistent with their gender identity amount to sex-based classifications subject to intermediate scrutiny. In addition, the Fourth and Ninth Circuits have held that transgender individuals [constitute](#) a [quasi-suspect class](#) for equal protection purposes—that is, a class of individuals who warrant heightened protection under the law—and that transgender-based classifications are subject to intermediate scrutiny on that basis. Not all [federal](#) appellate [courts](#) have reached this conclusion.

Circuit Split over Medical Treatments for Transgender Minors

Plaintiffs challenging state laws that prohibit specific medical treatments for transgender minors have sought federal court orders to prevent these states from enforcing the laws until final resolution of the cases. Several federal district courts granted preliminary injunctions to halt enforcement of challenged state laws during the pendency of the legal challenges, in part based on the conclusion that the plaintiffs were likely to succeed on the merits of their equal protection claims.

When analyzing the preliminary injunctions at issue, federal appellate courts have split as to the applicable standard of review. The Eighth Circuit viewed one such state law as [classifying](#) individuals based on sex; applied intermediate scrutiny; and concluded that it was likely that the plaintiffs would prevail on their claim. By contrast, the [Sixth](#), [Seventh](#), and [Eleventh](#) Circuits reversed preliminary injunctions, holding that rational basis review applied to these laws and that they neither contained a sex classification nor targeted a quasi-suspect class. (The [Sixth](#), [Seventh](#), and [Eleventh](#) Circuits also rejected arguments related to the Due Process Clause of the Fourteenth Amendment, which were not at issue before the Supreme Court in *Skrmetti*.)

The Supreme Court ultimately [granted](#) certiorari in the Sixth Circuit case on the issue of whether a Tennessee law that limits the medical treatments available to minors to treat gender dysphoria violated the Fourteenth Amendment’s Equal Protection Clause.

Supreme Court Decision

In a 6-3 judgment, the Supreme Court affirmed the decision of the Sixth Circuit, holding that state laws regulating access to medical services according to age and treatment type are subject to rational basis review in an equal protection challenge.

Majority Opinion

The majority began by determining that rational basis review applied to the Tennessee law at issue, [SB1](#). The Court held that SB1 classifies based on age (i.e., whether an individual is a minor) and medical use (i.e., whether a treatment is used to treat gender dysphoria, gender identity disorder, or gender incongruence), [neither](#) of which warrant heightened review. The Court rejected the argument that SB1 classifies based on sex. While the Court acknowledged that the “excluded diagnoses” necessarily involve some reference to sex, in the [majority’s view](#), “the application of that prohibition does not turn on sex.”

The majority [did not address](#) whether transgender individuals constitute a quasi-suspect class because, in its view, SB1 does not classify based on whether or not an individual is transgender. Rather, the Court reiterated that SB1 classifies only on the bases of age and “medical use.” The Court acknowledged that only people who are transgender would seek treatment for the “excluded diagnoses,” but not all transgender individuals seek that treatment. Therefore, the class of those who do not seek treatment includes both transgender and cisgender people. The Court pointed to [Geduldig v. Aiello](#), a 1974 opinion holding that an employee disability insurance plan that excluded coverage for pregnancy-related conditions did not discriminate against women. In *Geduldig*, the Court reasoned that not all women are pregnant, and that even though the class of pregnant people consists only of women, the group of people who are not pregnant includes both women and men. Because women are in both groups, the Court found that the exclusion was based on the “physical condition” of pregnancy, not sex. The *Skrmetti* Court held that the same reasoning applied to SB1.

In a portion of the Court’s opinion joined by five Justices, the majority also found it unnecessary to [address](#) whether the reasoning of a different case, [Bostock v. Clayton County](#), applied to the equal protection analysis. In *Bostock*, the Court ruled that the ban on sex discrimination in employment under Title VII of the Civil Rights Act of 1964 (Title VII) encompasses discrimination based on sexual orientation and gender identity. [Assuming](#) that the term “sex” in Title VII refers to biological distinctions between females and males, the Court in *Bostock* found it is [impossible](#) for an employer to discriminate based on sexual orientation or gender identity without considering a person’s sex. The majority in *Skrmetti* held that this reasoning did not change its conclusion that SB1 was not based on sex because the availability of certain treatments under SB1 is based on diagnosis—the treatments specified under the law would be denied to any minor who sought to treat excluded conditions, regardless of their sex. Federal courts of appeals have disagreed as to whether the logic of *Bostock* applies to analysis under the [Equal Protection Clause](#), as well as [other contexts](#). Because the majority did not address this issue, disagreements among federal courts of appeals remain unresolved.

After determining that rational basis review applied to SB1, the Court [held](#) that the law “clearly meets th[at] standard.” Tennessee had argued that the exclusions in SB1 sought to promote the health and welfare of minors, because the state had determined the efficacy and safety of the prohibited medical care to be unknown. [Noting](#) “fierce scientific and policy debates” around the issue, the Court “decline[d] . . . to second-guess” the state’s determination.

Concurring Opinions

Concurrences were filed by Justices Thomas, Barrett, and Alito. Justices [Thomas](#) and [Alito](#) would have held that the logic of *Bostock* does not apply to the equal protection context. Justice [Barrett](#), joined by Justice Thomas, and Justice [Alito](#), writing separately, would have held that transgender status does not constitute a suspect class subject to heightened scrutiny. All three Justices agreed with the Court’s judgment, but Justice Alito joined only part of the majority opinion. Unlike other Justices in the majority, Justice Alito would have assumed that SB1 classifies on the basis of transgender status, but would still sustain the law under rational basis review.

Dissenting Opinions

Justice Sotomayor filed the [primary dissent](#), joined by Justice Jackson and in part by Justice Kagan. The dissenting Justices argued that SB1 expressly classifies on the basis of sex and should have been reviewed under intermediate scrutiny. [Noting](#) that SB1 excludes some treatments only when used to allow minors to identify with a gender inconsistent with their biological sex, Justice Sotomayor wrote that “sex determines access to the covered medication.” Justice Sotomayor also stated that SB1 discriminates on the basis of transgender status, and that [transgender status](#) “bear[s] the hallmarks of a quasi-suspect class.” [Justice Kagan](#) authored a separate dissent in which she agreed that SB1 was subject to intermediate scrutiny but expressed “no view on how SB1 would fare under heightened scrutiny.”

Implications of *Skrametti* and Considerations for Congress

The Supreme Court’s decision will likely have implications beyond the parties to the case. As an initial matter, going forward, laws and policies that regulate access to medical services for gender dysphoria according to age and treatment type will be subject to rational basis review rather than a heightened form of judicial scrutiny. However, not all states impose prohibitions on medical treatments similar to SB1, and the Court’s decision does not require states to adopt restrictions similar to the ones in the case.

The reasoning of the Court’s decision might be invoked in cases addressing similar laws and policies that restrict access to medical services for adults, though application of the decision may depend on the particular characteristics of the restriction. For instance, the West Virginia Medicaid program includes a blanket coverage [exclusion](#) for “transsexual surgery,” and North Carolina’s State Health Plan for Teachers and State Employees (NCSHP) categorically [excludes](#) coverage for treatments “leading to or in connection with sex changes or modifications.” In *Kadel v. Folwell*, decided prior to the Court’s decision in *Skrametti*, the Fourth Circuit reviewed both West Virginia’s and North Carolina’s coverage exclusions under intermediate scrutiny and held that they violated the Equal Protection Clause. Following the decision in *Skrametti*, the Supreme Court granted petitions for certiorari from both West Virginia and North Carolina. In a [summary disposition](#), the Court vacated the Fourth Circuit’s ruling in *Kadel* and remanded the cases “for further consideration in light of [*Skrametti*].” The vacatur of the Fourth Circuit’s holding in *Kadel* is not a decision on the merits. Further proceedings in the Fourth Circuit may clarify how lower courts will apply *Skrametti* to medical treatment exclusions that apply regardless of age. The Supreme Court also [granted](#) certiorari in a Ninth Circuit case regarding a health care provider’s refusal to provide Medicaid coverage for certain surgeries for transgender women. In that case, *M.H. v. Hamso*, the Ninth Circuit [affirmed](#) the district court’s denial of qualified immunity from an equal protection claim, ruling that the plaintiffs had a clearly established right to be treated the same as non-transgender beneficiaries of Medicaid. For the Ninth Circuit, refusing to cover certain surgeries to treat gender dysphoria was a [classification](#) based on transgender status and sex, subject to heightened scrutiny under circuit precedent. As with *Kadel*, the Supreme Court vacated and remanded *Hamso* for further consideration in light of *Skrametti*.

It is uncertain to what degree the *Skrametti* decision might have implications for how lower courts analyze equal protection claims involving transgender persons outside the health care context. As it did with *Kadel* and *Hamso*, the Supreme Court following *Skrametti* [granted](#) certiorari, vacated, and remanded for reconsideration the Tenth Circuit’s decision in *Fowler v. Stitt*. In that case, the Tenth Circuit reviewed a challenge to a state [policy](#) prohibiting individuals from changing the sex designation on their birth certificate. The court ruled that the policy purposefully [discriminated](#) based on sex and transgender status and could not “withstand even rational basis review.” In addition, a federal government [policy](#) bans individuals with “a current diagnosis or history of, or exhibit[ing] symptoms consistent with” gender dysphoria from military service. Some military servicemembers have [challenged](#) implementation of the policy. Before *Skrametti* was decided, the Supreme Court [granted](#) a stay of a preliminary injunction issued

against its implementation. It is not clear whether courts will take the ruling in *Skrimetti* to mean that policies like the federal military service ban are based on diagnosis rather than sex, and thus subject only to rational basis review.

More broadly, the majority [opinion](#) in *Skrimetti* ruled that Tennessee's law did not classify based on transgender status, and did not decide whether transgender individuals are a suspect or quasi-suspect class. Thus, the opinion did not resolve whether a law that does classify on that basis warrants heightened scrutiny.

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