

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

L.W., by and through her parents and next friends,
Samantha Williams and Brian Williams;
SAMANTHA WILLIAMS; BRIAN WILLIAMS;
JOHN DOE, by and through his parents and next
friends, Jane Doe and James Doe; JANE DOE;
JAMES DOE; RYAN ROE, by and through his
parent and next friend, Rebecca Roe; REBECCA
ROE; and SUSAN N. LACY, on behalf of herself
and her patients,

Plaintiffs,

and

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

JONATHAN SKRMETTI, in his official capacity as
the Tennessee Attorney General and Reporter;
TENNESSEE DEPARTMENT OF HEALTH;
RALPH ALVARADO, in his official capacity as the
Commissioner of the Tennessee Department of
Health; TENNESSEE BOARD OF MEDICAL
EXAMINERS; MELANIE BLAKE, in her official
capacity as the President of the Tennessee Board of
Medical Examiners; STEPHEN LOYD, in his official
capacity as Vice President of the Tennessee Board of
Medical Examiners; RANDALL E. PEARSON,
PHYLLIS E. MILLER, SAMANTHA MCLERRAN,
KEITH G. ANDERSON, DEBORAH
CHRISTIANSEN, JOHN W. HALE, JOHN J.
MCGRAW, ROBERT ELLIS, JAMES DIAZ-
BARRIGA, and JENNIFER CLAXTON, in their
official capacities as members of the Tennessee
Board of Medical Examiners; and LOGAN GRANT,
in his official capacity as the Executive Director of
the Tennessee Health Facilities Commission,

Defendants.

Case No.
3:23-cv-00376

District Judge Richardson

Magistrate Judge Newbern

UNITED STATES' MOTION TO INTERVENE

The United States, under Federal Rule of Civil Procedure (“Rule”) 24, respectfully moves the Court for leave to intervene in this action and for permission to file the attached complaint in intervention. Counsel for the United States reached out to the Tennessee Attorney General’s Office to notify them of this motion but were not able to reach counsel. The receptionist for the Attorney General’s office stated that the attorney handling this case, who has not yet entered an appearance, is traveling and unavailable to speak with counsel for the United States today. Private Plaintiffs have indicated they do not oppose the motion.

As grounds for its motion to intervene, the United States asserts the following facts, which are more fully set forth in the accompanying memorandum of law:

1. On April 20, 2023, the *L.W.* Plaintiffs filed this lawsuit challenging Act No. 2023-SB0001, Senate Bill 1 (“SB 1”). SB 1, 2023 Tenn. Pub. Acts § 68-33-101, *et seq.* Section 68-33-103 of SB 1 prohibits a health care provider from providing medical care to transgender minors to affirm their gender identity and to provide medically necessary care to treat a diagnosis of gender dysphoria. SB 1 defines a minor as an individual under eighteen years of age and goes into effect July 1, 2023.

2. The *L.W.* Plaintiffs are three Tennessee transgender minors and their parents, and Dr. Susan Lacy, a health care provider. The *L.W.* Plaintiffs assert that SB 1, *inter alia*, discriminates on the basis of sex and transgender status in violation of the Equal Protection Clause of the Fourteenth Amendment; violates Plaintiff parents’ fundamental rights to make decisions concerning the care of their children, including the ability to seek and follow medical advice to protect the health and well-being of their minor children in violation of the Plaintiff parents’ substantive Due Process rights under the Fourteenth Amendment; that SB 1 is

preempted by Section 1557 of the Affordable Care Act, 42 U.S.C. § 18116 (“Section 1557”) because Section 1557 requires that health care providers who receive federal financial assistance not discriminate on the basis of sex but SB 1 requires health care providers to discriminate against adolescents on the basis of their sex and refuse to provide medically approved care to transgender adolescents; and discriminates on the basis of sex in violation of Section 1557.

3. The United States seeks to intervene in this lawsuit against Defendants Jonathan Skrmetti, in his official capacity as the Tennessee Attorney General and Reporter; Ralph Alvarado, in his official capacity as the Commissioner of the Tennessee Department of Health; Melanie Blake, in her official capacity as the President of the Tennessee Board of Medical Examiners; Stephen Loyd, in his official capacity as Vice President of the Tennessee Board of Medical Examiners; Randall E. Pearson, Phyllis E. Miller, Samantha McLerran, Keith G. Anderson, Deborah Christiansen, John W. Hale, John J. McGraw, Robert Ellis, James Diaz-Barriga, and Jennifer Claxton, in their official capacities as members of the Tennessee Board of Medical Examiners; and Logan Grant, in his official capacity as the Executive Director of the Tennessee Health Facilities Commission, under Rule 24.

4. Rule 24(a)(1) provides that, on timely motion, a court must permit anyone to intervene who “is given an unconditional right to intervene by a federal statute.”

5. Section 902 of the Civil Rights Act of 1964, as amended, grants the United States an unconditional right to intervene in cases seeking relief from the alleged denial of equal protection of the laws under the Fourteenth Amendment to the United States Constitution on account of sex, if the Attorney General certifies that the case is of general public importance. 42 U.S.C. § 2000h-2. The United States’ complaint in intervention alleges that SB 1 violates the Equal Protection Clause of the Fourteenth Amendment on account of both sex and transgender

status.

6. The Attorney General certifies that this is a case of public importance. A Certificate of Public Importance is attached hereto as Exhibit 1.

7. Alternatively, Rule 24(b) provides for permissive intervention upon a timely motion when a potential party has a claim or defense that shares with the main action a common question of law or fact, and when intervention will not unduly delay or prejudice the adjudication of the original parties' rights. The United States has satisfied the requirements for permissive intervention here.

8. A complaint in intervention is attached hereto as Exhibit 2.

WHEREFORE, the United States respectfully requests that this Court grant its motion to intervene in this action.

Dated: April 26, 2023

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Middle District of Tennessee

s/Ellen Bowden McIntyre
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Respectfully submitted,

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**Pro hac vice motions pending*

CERTIFICATE OF SERVICE

I certify that on April 26, 2023, a true and correct copy of the foregoing was served via the Court's CM/ECF system, if registered. A service copy also was served via both certified mail and personal service on the parties listed below.

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<p>Sruti J. Swaminathan, Esq. Lambda Legal Defense and Education Fund, Inc. 120 Wall Street, 19th Floor New York, NY 10005 Email: sswaminathan@lamblegal.org</p>	<p>Jonathan Skrmetti, in his official capacity as the Tennessee Attorney General and Reporter General Reporter Attorney and Reporter Office of the Tennessee Attorney General P.O. Box 20207 Nashville, TN 37202-0207 <i>and</i> Office of the Tennessee Attorney General John Sevier Building, 4th Floor 500 Dr. Martin L. King, Jr. Blvd., Nashville, TN 37243</p>
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<p>Stephen Loyd, in his capacity as Vice President of the Tennessee Board of Medical Examiners c/o General Reporter Attorney and Reporter Office of the Tennessee Attorney General P.O. Box 20207 Nashville, TN 37202-0207 <i>and</i></p>	<p>Phyllis E. Miller, Samantha McLerran, Deborah Christiansen, John W. Hale, Robert Ellis, James Diaz-Barriga, and Jennifer Claxton, in their official capacities as members of the Tennessee Board of Medical Examiners</p>

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<p>Logan Grant, in his official capacity as the Executive Director of the Tennessee Health Facilities Commission c/o General Reporter Attorney and Reporter Office of the Tennessee Attorney General P.O. Box 20207 Nashville, TN 37202-0207 <i>and</i> Office of the Tennessee Attorney General John Sevier Building, 4th Floor 500 Dr. Martin L. King, Jr. Blvd., Nashville, TN 37243</p>	

s/Ellen Bowden McIntyre _____
Ellen Bowden McIntyre
Assistant United States Attorney