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Appeals court lets Kentucky enforce ban on transgender care for minors

The law, enacted this year over the veto of Democratic Gov. Andy Beshear, prevents transgender minors from accessing puberty blockers and hormone therapy.



— Protesters of Kentucky Senate Bill SB150 rally at the Kentucky Capitol in Frankfort, Ky., on March 29. Timothy D. Easley / AP file

July 31, 2023, 5:03 PM PDT / Source: [The Associated Press](#)

By The Associated Press

A federal appeals court is allowing Kentucky to enforce a recently enacted ban on gender-affirming care for young transgender people while the issue is being litigated.

The 2-1 decision Monday from the Sixth U.S. Circuit Court of Appeals in Cincinnati is not unexpected. The same three-judge panel [ruled the same way earlier this month](#) on a similar case in Tennessee.

The Kentucky law, enacted this year over the veto of Democratic Gov. Andy Beshear, prevents transgender minors from accessing puberty blockers and hormone therapy.

At least 20 states have now enacted laws restricting or banning gender-affirming medical care for transgender minors. Most of those states face lawsuits. A federal judge [struck down Arkansas' ban](#) as unconstitutional. In other states, judges have issued disparate rulings on whether the laws can be enforced while the cases are being litigated.

In Kentucky, U.S. District Judge David Hale had initially blocked Kentucky from enforcing the ban. But he lifted that injunction July 14, after the Sixth Circuit issued its ruling in the Tennessee case.

Seven transgender children and their

parents have sued to block the Kentucky law. They argue that it violates their constitutional rights and interferes with parental rights to seek established medical treatment for their children.

In Monday's ruling, judges Jeffrey Sutton, an appointee of former President George W. Bush, and Amul Thapar, an appointee of former President Donald Trump, said that the issues in the Kentucky case are essentially identical to those in Tennessee.

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In the Tennessee case, the judges wrote that decisions on emerging policy issues like transgender care are generally better left to legislatures rather than judges. They offered a similar rationale Monday in the Kentucky case.

“The people of Kentucky enacted the ban through their legislature,” the judges wrote. “That body – not the officials who disagree

with the ban – sets the Commonwealth’s policies.”

The dissenting judge, Helene White, noted that Kentucky’s ban does not include a grace period for patients who are already receiving care to continue treatment, as Tennessee’s law did.

As a result, White said the need for an injunction blocking the ban in Kentucky is even greater than it was in Tennessee.

“It seems obvious that there is a tremendous difference between a statute like Tennessee’s that allows flexibility regarding treatment decisions and time to explore alternatives and one like Kentucky’s that forces doctors to either discontinue treatment immediately or risk losing their license,” wrote White, who was first nominated by former President Bill Clinton and later nominated by Bush.

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