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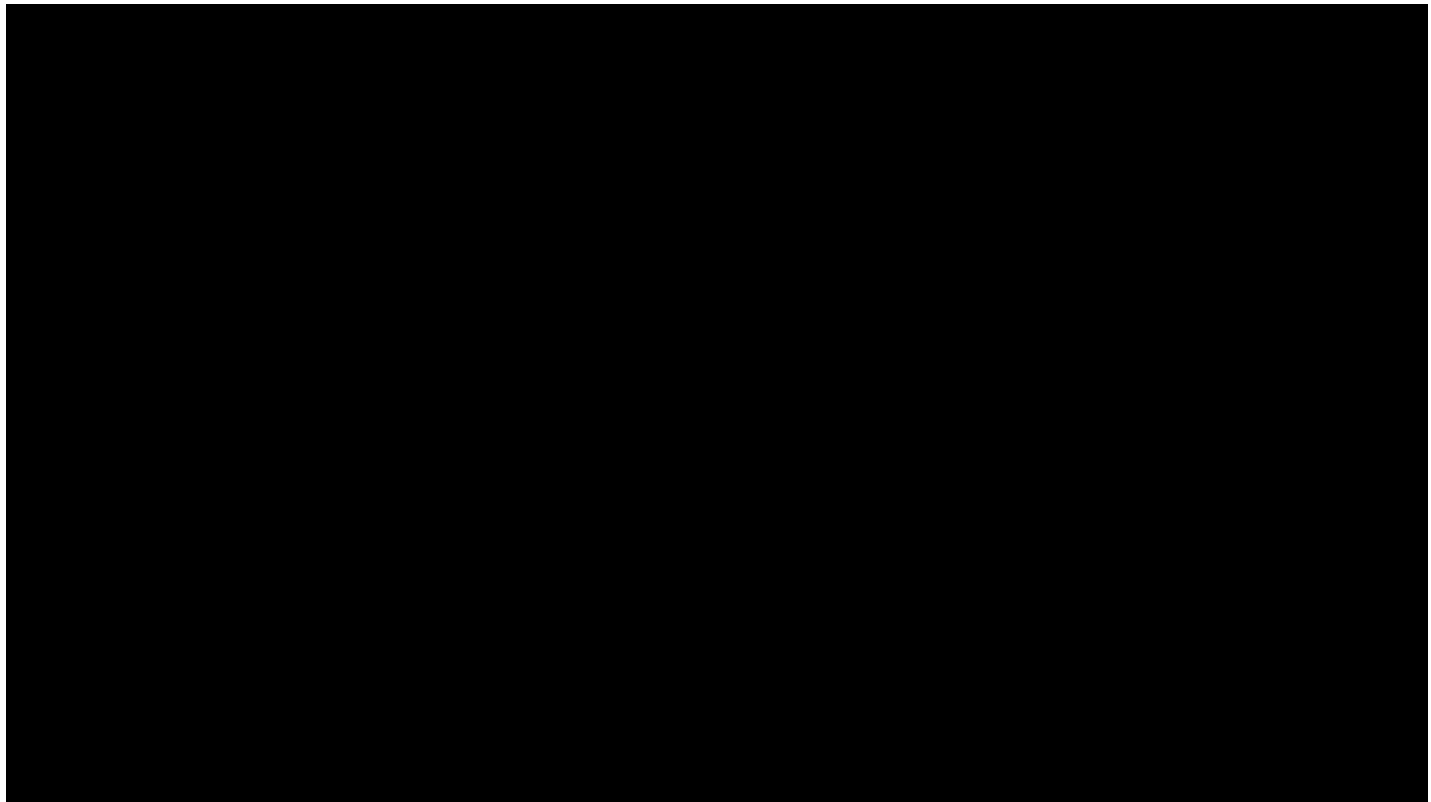
Montana judge temporarily blocks ban on transgender surgeries, medical intervention for minors

Montana SB 99 bans puberty blockers, hormone treatment and transgender surgical procedures for minors with gender dysphoria



By **Danielle Wallace** · Fox News

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Montana was hit with a roadblock to its ban against transgender surgeries for minors, as a state judge ruled Wednesday to temporarily block the Republican-backed legislation.

The law banning puberty blockers, cross-sex hormone treatment and transgender surgical procedures for minors with gender dysphoria was set to be enforced on Oct. 1, but District Court Judge Jason Marks granted a preliminary injunction on several constitutional grounds.

The ruling says the law, known as SB 99 or the "[Youth Health Protection Act](#)," likely violates Montana's Equal Protection Clause because it classifies on the basis of transgender status – making it a sex-based classification – and infringes on fundamental rights, subjecting the legislation to strict scrutiny.

Marks also argued the law would not survive strict scrutiny because it does not serve the "purported compelling governmental interests of protecting minor Montanans from pressure to receive harmful medical treatments" and would likely not survive any level of constitutional review. SB 99, according to the judge's ruling, also likely violates the plaintiffs' rights to privacy under the state constitution because the procedures the law seeks to ban are not "medically acknowledged" as "bona fide health risks."

MONTANA GOV. GREG GIANFORTE SIGNS BILL BANNING TRANSGENDER TREATMENTS FOR MINORS



Demonstrators gather at the state Capitol protesting what they deemed "anti-LGBTQ+" legislation in Helena, Montana, March 15, 2021. (Thom Bridge/Independent Record via AP, File)

"This is a preliminary matter at this point," Emilee Cantrell, spokesperson for [Montana Attorney General](#) Austin Knudsen, told Fox News Digital. "We look forward to presenting our complete factual and legal argument to protect Montana children from harmful, life-altering medications and

surgeries. Because of the irreversible and immediate harms that the procedures have on children, we will be filing a notice of appeal today."

Wednesday's ruling delivers a temporary victory to the two children who identify as transgender, their parents and two medical providers who sued to prevent the law from taking effect next month. The complaint, filed in May by the American Civil Liberties Union, the ACLU of Montana and Lambda Legal, argues that the ban serves no purpose other than to "intentionally burden a transgender person's ability to seek necessary care to align their body with their gender identity." In the lawsuit, the ACLU argued treatments for gender dysphoria meet standards of care approved by major medical organizations, including the American Medical Association and the American Academy of Pediatrics.



State Rep. Zoey Zephyr stands in protest as demonstrators are arrested in the House gallery on April 24, 2023, in the Montana state Capitol in Helena. (Thom Bridge/Independent Record via AP)

Montana Republican Gov. Greg Gianforte signed the bill into law in late April amid controversy over transgender Democrat state [Rep. Zoey Zephyr being censured](#).

During debate over the bill, Zephyr told lawmakers who voted yes on the legislation and amendments that "when you bow your heads in prayer, you see [the blood on your hands](#)." Zephyr also claimed that denying gender transition medical treatment to children and other minors was "tantamount to torture" and a ban would lead to increased suicides among those youths.

[**MONTANA TRANSGENDER LAWMAKER BARRED FROM HOUSE FLOOR AFTER 'HATE-FILLED TESTIMONY'**](#)

Montana's Attorney General's Office has defended the ban, arguing at the time the ACLU lawsuit was filed that the legislation "provides commonsense protections for Montana children – who can't even enter into contracts or buy cigarettes or alcohol – from harmful, life-altering medications and surgeries."

During a Sept. 18 hearing on the litigation, ACLU staff attorney Malita Picasso claimed allowing the ban to take effect would cause irreparable harm to transgender minors who are receiving treatment, in part by exacerbating the anxiety and depression they feel because their body is incongruent with their gender identity.



Demonstrators hold a sign that reads "Democracy Dies Here" on the steps of the Montana state Capitol, in Helena, April 24, 2023. (Thom Bridge/Independent Record via AP)

The state countered that beginning the treatments put children experiencing gender dysphoria on a "path of no return."

"A child cannot possibly consent to the treatment that permanently and irreversibly changes secondary sex characteristics, nor can a child consent to future infertility and sterilization, future sexual dysfunction and a lifetime of hormone treatments and other forms of medicalization and resulting complications," Assistant Attorney General Michael Russell argued.

The preliminary injunction will remain in effect until a full trial can be held on the issue, but Marks said he expects his decision will be appealed to the Montana Supreme Court.



Montana Republican Gov. Greg Gianforte signed a bill into law in April prohibiting gender transition treatments for minors. (William Campbell/Getty Images)

"Today's ruling permits our clients to breathe a sigh of relief," Akilah Deernose, executive director of the ACLU of Montana, said in a statement. "But this fight is far from over. We look forward to vindicating our clients' constitutional rights and ensuring that this hateful law never takes effect."

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Montana is one of at least 22 states that have enacted bans on transgender medical intervention for minors and most face lawsuits.

Fox News Digital reached out to the Montana governor's office for comment.

The Associated Press contributed to this report.

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