No. 23-477

IN THE

Supreme Court of the United States

UNITED STATES OF AMERICA,

Petitioner,

—v.—

JONATHAN THOMAS SKRMETTI, ATTORNEY GENERAL AND REPORTER FOR TENNESSEE, ET AL.,

—and—

Respondents,

L.W., BY AND THROUGH HER PARENTS AND NEXT FRIENDS, SAMANTHA WILLIAMS AND BRIAN WILLIAMS, ET AL.,

Respondents in Support of Petitioner.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF OF *AMICI CURIAE* GIFFORDS LAW CENTER TO PREVENT GUN VIOLENCE, BRADY CENTER TO PREVENT GUN VIOLENCE, TEAM ENOUGH, AND MARCH FOR OUR LIVES ACTION FUND IN SUPPORT OF PETITIONER AND OF RESPONDENTS IN SUPPORT OF PETITIONER

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Bianchi v. Brown,
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Bostock v. Clayton Cnty.,
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Dep't of Agric. v. Moreno,
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Doe 1 v. Thornbury,
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L.W. v. Skrmetti,
679 F. Supp. 3d 668, *rev'd and remanded*
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Oklahoma v. Castro-Huerta,
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Romer v. Evans,
517 U.S. 620 (1996) 5, 26

Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll.,
600 U.S. 181 (2023) 27

United States v. Carolene Products Co.,
304 U.S. 144 (1983) 26

United States v. Virginia,
518 U.S. 515 (1996) 5, 27

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Constitutional Provisions

U.S. CONST. Amend. XIV 5, 26

U.S. CONST. pmbl. 26

Statutes

Ky. Rev. Stat. Ann. § 311.372(2)(a) 4, 22

Ky. Rev. Stat. Ann. § 311.372(4) 22

Ky. Rev. Stat. Ann. § 311.372(5)(a)-(b) 22

Tenn. Code Ann.

§ 68-33-101(m) 5, 17

§ 68-33-103(a)(1)(A)-(B) 22

§ 68-33-105(a)(1) 22

§ 68-33-106(b) 22

§ 68-33-107 22

Other Authorities

Am. Psychiatric Ass'n, Diagnostic and Statistical Manual of Mental Disorders (5th ed. 2013) 18

Amy E. Green et al., *Association of Gender-Affirming Hormone Therapy with Depression, Thoughts of Suicide, and Attempted Suicide Among Transgender and Nonbinary Youth*, 70 J. Adolescent Health 643 (2022) 7, 19, 20

PAGE(S)

Amy Novotney, *'The Young People Feel It': A Look at the Mental Health Impact of Transgender Legislation*, Am. Psych. Ass'n (June 29, 2023).... 26

Andrew Conner et al., *Suicide Case-Fatality Rates in the United States, 2007 to 2014*, 171 Annals Internal Med. 885 (2019)..... 24

Andrew DeMillo, *Trans People Face Hostile Rhetoric from State Lawmakers*, PBS (Feb. 27, 2023) 17

Andrew R. Flores et al., *Gender Identity Disparities in Criminal Victimization: National Crime Victimization Survey, 2017-2018*, 111 Am. J. Pub. Health 726 (2021)..... 11

Carina Ankarberg-Lindgren et al., *Physiological Estrogen Replacement Therapy for Puberty Induction in Girls: A Clinical Observational Study*, 81 Hormone Rsch. Paediatrics 239 (2014) 5

Catherine W. Barber & Matthew J. Miller, *Reducing a Suicidal Person's Access to Lethal Means of Suicide*, 47 Am. J. Preventative Med. S264 (2014)..... 9, 24

Cong. Globe, 39th Cong., 1st Sess., 431 (1866) (statement of Rep. Bingham)..... 27

Diana M. Tordoff et al., *Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care*, 5 JAMA Network Open: Pediatrics, no. 2, 2022..... 8, 20

PAGE(S)

Eliza Siegel, *LGBTQ+ Individuals are Disproportionately Impacted by Gun Violence*, Northwell Health (Apr. 25, 2023) 10

Emma Chinn et al., *LGBTQ Tennesseans: A Report of the 2021 Southern LGBTQ Experience Survey*, Campaign for Southern Equality (2023)..... 13, 15

Erica A. Eugster, *Treatment of Central Precocious Puberty*, 3 J. Endocrine Soc'y 965 (2019) 5

Everytown for Gun Safety, *Everytown Report Highlights Impact of Gun Violence on LGBTQ+ Communities* (Oct. 11, 2022)..... 26

Everytown for Gun Safety, *New Everytown Analysis: First Half of 2021-2022 School Year Had Most School Gun Violence In Recent History* (Feb. 11, 2022) 15

Everytown for Gun Safety, *New Everytown Data on Transgender Homicides Reveals Concentration in the South* (Feb. 13, 2024)..... 7

Everytown for Gun Safety, *Transgender Homicide Tracker* 6, 12

Federal Bureau of Investigation, *Crime Data Explorer* 6, 11

Giffords, *Gun Suicide* 9, 24

Greta R. Bauer et al., *Intervenable Factors Associated with Suicide Risk in Transgender Persons: A Respondent Driven Sampling Study in Ontario, Canada*, 15 BMC Pub. Health (2015) 7, 19

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Human Rights Campaign, *Get the Facts on Gender-Affirming Care* 8

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Human Rights Campaign, *National State of Emergency for LGBTQ+ Americans* 15

Human Rights Campaign, *The Epidemic of Violence Against the Transgender and Gender Non-Conforming Community in the United States* (Nov. 20, 2023) 6, 12, 16

John Gramlich, *What the Data Says about Gun Deaths in the U.S.*, Pew Rsch. Ctr. (Apr. 26, 2023) 24

Kate Reese & Sarah Burd-Sharps, *Freedom from Fear of Hate-Fueled Violence: Preventing Transgender Homicides*, Everytown for Gun Safety (Mar. 12, 2024) 14, 15

Koko Nakajima & Connie Hanzhang Jin, *Bills Targeting Trans Youth Are Growing More Common—And Radically Reshaping Lives*, NPR (Nov. 28, 2022, 5:00 AM) 13

Laura Meckler et al., *In States with Laws Targeting LGBTQ Issues, School Hate Crimes Quadrupled*, Wash. Post (Mar. 12, 2024, 7:00 AM) 7, 14, 15, 16, 21

Madelaine Roberts, *New CDC Data Shows LGBTQ Youth are More Likely to be Bullied Than Straight Cisgender Youth*, Human Rights Campaign (Aug. 26, 2020) 12

PAGE(S)

Matthew Miller & Deborah Azrael, *Firearm Storage in US Households with Children*, 5 JAMA Network Open, no. 2, 2022 23

Michelle M. Johns et al., *Transgender Identity and Experiences of Violence Victimization, Substance Use, Suicide Risk, and Sexual Risk Behaviors Among High School Students—19 States and Large Urban School Districts, 2017*, 68 CDC: Morbidity & Mortality Wkly. Rep. 67 (2019) 12, 15, 19

Nora Neus, *Transgender Deaths in US on Rise with Increase in Anti-Trans Laws, Report Shows*, Guardian (Nov. 22, 2023) 16

Out Leadership, *2024 State LGBTQ+ Business Climate Index* (June 3, 2024) 14

Richard T. Liu & Brian Mustanki, *Suicidal Ideation and Self-Harm in Lesbian, Gay, Bisexual, and Transgender Youth*, 42 Am. J. Preventive Med. 221 (2012)..... 21

Rob Gabriele, *2024 LGBTQ+ State Safety Report Cards*, SafeHome (Aug. 7, 2024)..... 14

Rodolfo A. Rey & Romina P. Grinspon, *Androgen Treatment in Adolescent Males With Hypogonadism*, 14 Am. J. Men's Health 1 (2020) 5

Russell B. Toomey et al., *Transgender Adolescent Suicide Behavior*, 142 Pediatrics, no. 4, 2018 19

Ryan Womack, *Should Schools Notify Parents if Their Child Claims to Be Transgender?*, All. Def. Freedom (Oct. 18, 2022)..... 17

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Samantha Barrios, *Eight Years after Pulse, We're Still Fighting to Disarm Hate*, Giffords (June 11, 2024) 10

Sandro Galea, *A Hate Crime Against LGBT Communities, With Weapons of War*, B.U. Sch. Pub. Health (June 19, 2016) 9

Sandy E. James et al., *Early Insights: A Report of the 2022 U.S. Transgender Survey*, Nat'l Ctr. for Transgender Equality (2022) 11, 19

Sandy E. James et al., *The Report of the 2015 U.S. Transgender Survey*, Nat'l Ctr. for Transgender Equality (2016) 18, 23

Sandy Hook Promise, *Facts and Statistics About the Impact of Gun Violence on LGBTQ+ People* 7

Theodore E. Schall & Jacob D. Moses, *Gender-Affirming Care for Cisgender People*, 53 Hastings Ctr. Rep. 15 (2023) 5

Tracking the Rise of Anti-Trans Bills in the U.S., Trans Legislation Tracker 13

The Trevor Project, *2024 U.S. National Survey on the Mental Health of LGBTQ+ Young People* 11, 16, 19, 21

The Trevor Project, *Facts About Suicide Among LGBTQ+ Young People* 20

The Trevor Project, *The Relationship Between Firearms, Mass Shootings and Suicide Risk Among LGBTQ+ Young People* (June 6, 2024) 9, 23, 24, 25

PAGE(S)

Ziyi Cai et al., *The Lethality of Suicide Methods: A Systematic Review and Meta-Analysis*, 300 J. Affective Disorders 121 (2022) 24

INTEREST OF *AMICI CURIAE*[1]

Amici curiae are nonpartisan organizations dedicated to preventing gun violence and promoting public safety through research, education, legal advocacy, and policy initiatives. Collectively, they represent a diverse coalition of experts, advocates, and youth leaders committed to reducing gun violence while protecting constitutional rights. With extensive experience in firearm legislation analysis, policy evaluation, and participation in Second Amendment litigation, *amici* offer valuable insights on the intersectionality of gun violence prevention and social equity. *Amici's* collective expertise and engagement in nationwide efforts to implement evidence-based solutions uniquely position them to assist the Court in understanding the broader implications of this case on public safety and constitutional interpretation.

Giffords Law Center to Prevent Gun Violence ("Giffords Law Center") is a nonprofit policy organization dedicated to researching, writing, enacting, and defending laws and programs proven to reduce gun violence and save lives. Founded in 1993 after a gun massacre at a San Francisco law firm, the organization was renamed Giffords Law Center in October 2017 after joining forces with the gun-safety organization led by former Congresswoman Gabrielle Giffords.

Today, Giffords Law Center provides free assistance and expertise to lawmakers, advocates, legal professionals, law-enforcement officials,

[1] No counsel for any party has authored this brief in whole or in part, and no person has made any monetary contribution intended to fund the preparation or submission of this brief.

survivors of gun violence, and others seeking to make their communities safer from gun violence. Its attorneys track and analyze firearm legislation, evaluate policy proposals regarding gun violence prevention, and participate in Second Amendment litigation nationwide. The organization has provided courts with *amicus* assistance in many important cases involving guns and gun violence.

The Brady Center to Prevent Gun Violence ("Brady") is the nation's oldest nonpartisan, nonprofit organization dedicated to reducing gun violence through education, research, and legal advocacy. Brady works across Congress, courts, and communities, uniting gun owners and non-gun-owners alike, to take action to prevent gun violence. Brady has a substantial interest in ensuring that the Constitution is construed to protect Americans' fundamental right to live. Further, recognizing that gun violence is intersectional, Brady has a substantial interest in advocating for solutions that not only reduce gun violence but also advance equity. Brady has filed *amicus* briefs in many cases involving guns and gun violence, including in this Court.

Team ENOUGH is a youth-led, Brady-sponsored program that educates and mobilizes young people in the fight to end gun violence in the United States. A nationwide coalition of young people and students impacted in different ways by gun violence, Team ENOUGH has a substantial interest in ensuring that young people have influence over policies that affect their daily lives, and supports common-sense regulation of guns to reduce avoidable tragedies made lethal by easy access to guns.

March For Our Lives Action Fund ("MFOL") is a nonprofit organization of young people from across

the country who are fighting for sensible gun violence prevention policies that will save lives. After the 2018 mass shooting at Marjory Stoneman Douglas High School in Parkland, Florida, MFOL was formed and immediately began advocating for common-sense gun violence prevention legislation to ensure what happened in Parkland would never again occur. Since then, young people seeking to effect change have formed hundreds of MFOL chapters across the country. These young people have a vital interest in ensuring that the Constitution is interpreted to protect all Americans, in all communities.

SUMMARY OF ARGUMENT

This Court stands at a critical juncture, poised to make a decision that will profoundly impact the lives and safety of transgender youth across our nation. Bans on providing gender-affirming care[2] are not mere policy disagreements; they threaten a vulnerable population already besieged by discrimination, physical threats, and assaults, as well as the looming specter of gun violence. They act to deprive transgender youth of equal protection.

Tennessee's Senate Bill 1 ("SB1") prohibits healthcare providers from offering gender-affirming medical care to transgender youth even when individual patients, their parents, and their

[2] Gender-affirming care is a form of a treatment for gender dysphoria involving an individualized assessment of each patient's needs and which, depending on the patient's age, may include social transition, puberty blockers, hormone treatment, or surgical intervention. *See* Pet. for Writ of Cert. 5-7.

healthcare providers agree that such care is medically necessary.[3]

Shortly after the enactment of SB1, a Tennessee district court preliminarily enjoined portions of SB1, holding that the ban likely violated the Equal Protection Clause and risked causing irreparable harm to transgender youth. *See L.W. v. Skrmetti*, 679 F. Supp. 3d 668, 712-13 (M.D. Tenn. 2023).[4] The Sixth Circuit reversed the injunction and this Court granted certiorari on June 24, 2024.[5]

The district court's decision was correct: SB1 violates the Constitution's guarantee of equal protection. As a law that imposes disparate treatment on the basis of sex, SB1 should be subject

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[3] SB1 bars "reversible," nonsurgical treatments, such as puberty-suppressing medication, that "allow[] adolescents with gender dysphoria to pause their endogenous puberty, thereby avoiding the heightened gender dysphoria and permanent physical changes that puberty would cause." Pet'r's Br. 5; *see also id.* at 8 n.5.

[4] The district court cited evidence that bans on gender-affirming care risked causing severe anxiety, depression, and suicidal ideation among affected youth. *See L.W. v. Skrmetti*, 679 F. Supp. 3d at 712-13, *rev'd and remanded* 83 F.4th 460 (6th Cir. 2023).

[5] When SB1 was before the Sixth Circuit, it was consolidated with *Doe 1 v. Thornbury*, No. 23-5609 (6th Cir. July 8, 2023), a case challenging the enforcement of a similar law in Kentucky banning the provision of medical care to minors "to delay or stop normal puberty." Ky. Rev. Stat. Ann. § 311.372(2)(a) ("SB150"). Like the Tennessee district court, the Kentucky district court cited evidence of "severe psychological distress" to transgender youth in granting plaintiffs' request for a preliminary injunction of SB150. *Doe 1 v. Thornbury*, 679 F. Supp. 3d 576, 587 (W.D. Ky. 2023), *rev'd and remanded sub nom. L.W. v. Skrmetti*, 83 F.4th 460 (6th Cir. 2023).

to heightened scrutiny by this Court.[6] *See United States v. Virginia (VMI)*, 518 U.S. 515, 555 (1996). By stigmatizing and applying only to an already vulnerable group, SB1 violates the central promise of the Fourteenth Amendment's Equal Protection Clause. "If the constitutional conception of 'equal protection of the laws' means anything, it must at the very least mean that a bare . . . desire to harm a politically unpopular group cannot constitute a *legitimate* governmental interest." *Romer v. Evans*, 517 U.S. 620, 634 (1996) (emphasis in original). Research is clear that LGBTQ+[7] individuals, and

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[6] SB1 states that its purpose is to "encourage[] minors to appreciate their sex" by prohibiting the provision of medical care that "might encourage minors to become disdainful of their sex." Tenn. Code Ann. § 68-33-101(m). It does not otherwise bar the provision of puberty blockers or hormone therapy, effectively depriving transgender youth of medical care options that their cisgender peers can access to treat precocious puberty and delayed puberty. *See, e.g.*, Theodore E. Schall & Jacob D. Moses, *Gender-Affirming Care for Cisgender People*, 53 Hastings Ctr. Rep. 15, 18 (2023) (noting that cisgender boys are prescribed hormone replacement therapy for delayed growth and puberty and hormone blockers are prescribed for treatment of precocious puberty); Erica A. Eugster, *Treatment of Central Precocious Puberty*, 3 J. Endocrine Soc'y 965, 965 (2019) (explaining that hormone blockers have been used to treat precocious puberty since the 1980s and "have an enviable track record of safety and efficacy"); Rodolfo A. Rey & Romina P. Grinspon, *Androgen Treatment in Adolescent Males With Hypogonadism*, 14 Am. J. Men's Health 1, 11 (2020) (discussing androgen treatment for adolescent boys experiencing delays in onset of puberty); Carina Ankarberg-Lindgren et al., *Physiological Estrogen Replacement Therapy for Puberty Induction in Girls: A Clinical Observational Study*, 81 Hormone Rsch. Paediatrics 239, 239 (2014) (addressing estrogen replacement therapy for adolescent girls experiencing delays in onset of puberty).

[7] The Human Rights Campaign defines "LGBTQ+" as "[a]n acronym for 'lesbian, gay, bisexual, transgender and queer' with

particularly transgender and gender-nonconforming individuals and youth, face a more violent and threatening world than do their non-LGBTQ+ peers. The FBI has reported a nearly 29% increase in hate crimes targeting transgender individuals from 2021 to 2022.[8] These crimes are especially deadly when a firearm is involved. The number of homicides of transgender people nearly doubled between 2017 and 2021, and nearly three-quarters of transgender people murdered in the past seven years have been killed using a gun.[9]

Tragically, LGBTQ+ minors are the victims of many of these crimes. Hate crimes targeting

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a '+' sign to recognize the limitless sexual orientations and gender identities used by members of our community." Human Rights Campaign, *Glossary of Terms*, https://www.hrc.org/resources/glossary-of-terms (last updated May 31, 2023).

[8] Federal Bureau of Investigation, *Crime Data Explorer*, https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/hate-crime (last visited Aug. 21, 2024) (reporting 390 anti-transgender hate crimes against individuals in 2022, as compared to 303 anti-transgender hate crimes against individuals in 2021) (from the section "Hate Crime in the United States by Bias," under "Bias Select" choose "Anti-Transgender" from dropdown and "2022" or "2021" from dropdown year).

[9] *See* Everytown for Gun Safety, *Transgender Homicide Tracker*, https://airtable.com/appPLAJ5mUFwndPkQ/shrkgUrJPmtGxHZ0m/tblEhXLsohkNldLZp (last visited Aug. 21, 2024) (recording 30 homicides of transgender people in 2017 and 59 homicides of transgender people in 2021, with 208 of 288 homicides of transgender people between 2017 and 2023 committed using a gun). These homicides disproportionately affect communities of color: between 2013 and 2023, nearly 75% of all transgender homicide victims were transgender women of color. Human Rights Campaign, *The Epidemic of Violence Against the Transgender and Gender Non-Conforming Community in the United States* (Nov. 20, 2023), https://reports.hrc.org/an-epidemic-of-violence-2023.

LGBTQ+ students in elementary, middle, and high schools doubled in the period between 2021 and 2022, as compared to the period between 2015 and 2019.[10] More than one-fifth of all transgender youth have been threatened by or injured with a weapon on school property.[11] Violence targeting transgender individuals is especially pronounced in states that—like Tennessee and Kentucky—have passed legislation that singles out transgender youth.[12]

Access to gender-affirming care greatly improves reported mental health outcomes among transgender youth, along with their reported life satisfaction.[13] This significantly reduces the risk that transgender youth will attempt or die by suicide—a public health issue that impacts transgender youth at far higher

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[10] Laura Meckler et al., *In States with Laws Targeting LGBTQ Issues, School Hate Crimes Quadrupled*, Wash. Post (Mar. 12, 2024, 7:00 AM), https://www.washingtonpost.com/education/2024/03/12/school-lgbtq-hate-crimes-incidents.

[11] Sandy Hook Promise, *Facts and Statistics About the Impact of Gun Violence on LGBTQ+ People*, https://www.sandyhookpromise.org/blog/news/facts-and-statistics-about-the-impact-of-gun-violence-on-lgbtq-people (last visited Aug. 20, 2024).

[12] Everytown for Gun Safety, *New Everytown Data on Transgender Homicides Reveals Concentration in the South* (Feb. 13, 2024), https://www.everytown.org/press/new-everytown-data-on-transgender-homicides-reveals-concentration-in-the-south.

[13] *See* Amy E. Green et al., *Association of Gender-Affirming Hormone Therapy with Depression, Thoughts of Suicide, and Attempted Suicide Among Transgender and Nonbinary Youth*, 70 J. Adolescent Health 643, 647 (2022); Greta R. Bauer et al., *Intervenable Factors Associated with Suicide Risk in Transgender Persons: A Respondent Driven Sampling Study in Ontario, Canada*, 15 BMC Pub. Health, at 12-13 (2015).

rates than their cisgender peers.[14] Legislation targeting transgender youth is unambiguous in signaling that, according to some, transgender individuals are not deserving of equal protection under the law and do not deserve life-saving healthcare.

The availability of gender-affirming medical care can save many of these lives and reduce the risk that transgender youth will experience violence or severe psychological distress. According to the Human Rights Campaign, gender-affirming care "is life-saving healthcare for transgender people of all ages . . . . Just like any other form of healthcare it also helps transgender and non-binary people live safe and healthy lives."[15] Because it is life-saving healthcare, allowing access to gender-affirming care is the most basic first step to show that we, as a society, value the lives of transgender individuals. Gender-affirming care not only allows transgender individuals to live as their most authentic selves (often as openly transgender or nonbinary), but can also serve a protective role for the subset of transgender youth who opt to outwardly present as their true gender identities, as early intervention dramatically affects a young person's ability to "pass"

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[14] *See, e.g.*, Diana M. Tordoff et al., *Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care*, 5 JAMA Network Open: Pediatrics, no. 2, 2022, at 6, https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2789423.

[15] Human Rights Campaign, *Get the Facts on Gender-Affirming Care*, https://www.hrc.org/resources/get-the-facts-on-gender-affirming-care (last visited Aug. 20, 2024) (choose "What exactly is gender-affirming care?").

as cisgender, which can have both practical and mental health benefits.[16]

The heightened risk of suicide facing transgender youth is especially acute when transgender youth have access to firearms.[17] People living in households where guns are present are far more likely to attempt suicide, with youth at an especially high risk of death by suicide when guns are present in the home.[18] This is not a remote or hypothetical risk, limited to a small subset of LGBTQ+ youth: more than 40% of LGBTQ+ youth report access to at least one firearm in their home.[19] Moreover, suicide attempts involving firearms are likely to be fatal: nine out of ten suicide attempts with a firearm result in death, and more than half of all suicides involve a firearm.[20]

SB1 strikes at the heart of transgender youths' ability to live authentically and safely in their

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[16] J.A. at 976.

[17] Catherine W. Barber & Matthew J. Miller, *Reducing a Suicidal Person's Access to Lethal Means of Suicide*, 47 Am. J. Preventative Med. S264, S266 (2014), https://theactionalliance.org/sites/default/files/inline-files/Reducing%20a%20Suicidal%20Persons%20Access%20to%20Lethal.pdf; *see also* Giffords, *Gun Suicide*, https://giffords.org/issues/gun-suicide (last visited Aug. 27, 2024) ("[S]uicide is three times more likely in gun-owning households.").

[18] Sandro Galea, *A Hate Crime Against LGBT Communities, With Weapons of War*, B.U. Sch. Pub. Health (June 19, 2016), https://www.bu.edu/sph/news/articles/2016/a-hate-crime-against-lgbt-communities-with-weapons-of-war.

[19] The Trevor Project, *The Relationship Between Firearms, Mass Shootings and Suicide Risk Among LGBTQ+ Young People* (June 6, 2024), https://www.thetrevorproject.org/research-briefs/the-relationship-between-firearms-mass-shootings-and-suicide-risk-among-lgbtq-young-people.

[20] *Id.*

communities. Gender-affirming medical care is not a luxury; it is a lifeline. The consequences of upholding this ban extend far beyond the realm of healthcare. They touch upon the very core of our constitutional promise of equal protection under the law. By enshrining in law discrimination against transgender youth, SB1 denies the full measure of personal safety and security that is at the heart of our constitutional structure.

ARGUMENT

I. BANNING GENDER-AFFIRMING MEDICAL CARE PLACES TRANSGENDER YOUTH AT A GRAVE AND IMMEDIATE RISK OF GUN VIOLENCE

There is an ongoing epidemic of violence against LGBTQ+ people in the United States. When narrowing the focus to gun violence, "LGBTQ+ people are ***2.5 times more likely*** to be victims of violence involving a weapon than straight, cisgender people."[21] These are not just numbers; they represent lives shattered, families devastated, and communities living in constant fear.

The brutality of this epidemic is further underscored by the fact that since 2010, nearly one in five of the more than 13,000 hate crimes committed against LGBTQ+ people involved a gun.[22] This

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[21] Eliza Siegel, *LGBTQ+ Individuals are Disproportionately Impacted by Gun Violence*, Northwell Health (Apr. 25, 2023), https://www.northwell.edu/news/the-latest/lgbtq-individuals-impacted-by-gun-violence.

[22] Samantha Barrios, *Eight Years after Pulse, We're Still Fighting to Disarm Hate*, Giffords (June 11, 2024),

means that thousands of LGBTQ+ individuals have faced the barrel of a gun simply for daring to exist authentically in our society.

Even more chilling is the recent surge in violence targeting transgender individuals, who are subject to gun violence at rates that should shock the conscience. The often-underreported statistics[23] paint a grim and terrifying picture, and illustrate the depth of this public health emergency: transgender individuals face violence at ***four times*** the rate of cisgender people.[24] The FBI's national crime statistics, released in October 2023, recorded a staggering 28.71% jump in reported anti-transgender hate crimes from 2021 to 2022.[25] This is not a

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https://giffords.org/analysis/eight-years-after-pulse-were-still-fighting-to-disarm-hate.

[23] Studies indicate that underreporting is likely; for example, a 2022 survey of transgender individuals found that 62% of respondents would feel "very uncomfortable" or "somewhat uncomfortable" asking for help from the police because of their gender identity or expression. Sandy E. James et al., *Early Insights: A Report of the 2022 U.S. Transgender Survey*, Nat'l Ctr. for Transgender Equality (2022), https://transequality.org/sites/default/files/2024-02/2022%20USTS%20Early%20Insights%20Report_FINAL.pdf.

[24] Andrew R. Flores et al., *Gender Identity Disparities in Criminal Victimization: National Crime Victimization Survey, 2017-2018*, 111 Am. J. Pub. Health 726, 728 (2021); *see also* The Trevor Project, *2024 U.S. National Survey on the Mental Health of LGBTQ+ Young People*, https://www.thetrevorproject.org/survey-2024 (last visited Aug. 20, 2024) ("28% of transgender and nonbinary young people reported that they have been physically threatened or harmed in the past year due to their gender identity.").

[25] Federal Bureau of Investigation, *Crime Data Explorer*, *supra* note 8 (reporting 390 anti-transgender hate crimes against individuals in 2022, as compared to 303 anti-transgender hate crimes against individuals in 2021).

gradually increasing trend; it is an often-deadly explosion of hatred and violence directed at the transgender community. Between 2017 and 2021, the number of homicides of transgender people nearly doubled, with the vast majority of homicides in each year committed using firearms.[26] Since January 2017, there have been at least 286 homicides of transgender individuals in America, ***72% of which were committed using a gun***.[27] More than 60% of those homicides were of Black transgender women, highlighting the disproportionate impact this violence has on transgender communities of color.[28]

Tragically, this violence does not spare our youth. In what should be one of the safest places in American life—schools—"29% of transgender youth have been threatened or injured with a weapon on school property, compared to 7% of cisgender youth."[29] In other words, nearly ***one in three***

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[26] Everytown for Gun Safety, *Transgender Homicide Tracker*, *supra* note 9.

[27] *Id.*

[28] *See* Human Rights Campaign, *The Epidemic of Violence Against the Transgender and Gender Non-Conforming Community*, *supra* note 9; *see also* Everytown for Gun Safety, *Transgender Homicide Tracker*, *supra* note 9 (calculating that 62% of all transgender gun homicides between 2017 and 2024 were committed against Black women).

[29] *See* Madelaine Roberts, *New CDC Data Shows LGBTQ Youth are More Likely to be Bullied Than Straight Cisgender Youth*, Human Rights Campaign (Aug. 26, 2020), https://www.hrc.org/news/new-cdc-data-shows-lgbtq-youth-are-more-likely-to-be-bullied-than-straight-cisgender-youth ("29% of transgender youth have been threatened or injured with a weapon on school property, compared to 7% of cisgender youth; transgender youth were more likely in 2019 to have been threatened or injured with a weapon on school property than reported in 2017."); *cf.* Michelle M. Johns et al., *Transgender Identity and Experiences*

transgender students go to school each day facing the very real possibility they will be confronted with a weapon.

The correlation between this surge in violence and the wave of discriminatory legislation targeting transgender individuals is impossible to ignore. Between 2020 and 2022, "state lawmakers introduced at least 306 bills targeting trans people, more than in any previous period."[30] The majority of this legislation (86%) targeted transgender youth.[31] Tennessee and Kentucky are often cited as two of the least inclusive and least safe states for LGBTQ+ individuals, with more than three-quarters of LGBTQ+ youth in Tennessee reporting that they feel unsafe at school because of their actual or perceived gender.[32] This is more than a mere coincidence: SB1

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of Violence Victimization, Substance Use, Suicide Risk, and Sexual Risk Behaviors Among High School Students—19 States and Large Urban School Districts, 2017, 68 CDC: Morbidity & Mortality Wkly. Rep. 67, 69 (2019) (reporting that 23.8% of transgender students have been threatened or injured with a weapon at school, as compared to 6.4% of cisgender male students and 4.1% of cisgender female students).

[30] *See* Koko Nakajima & Connie Hanzhang Jin, *Bills Targeting Trans Youth Are Growing More Common—And Radically Reshaping Lives*, NPR (Nov. 28, 2022, 5:00 AM), https://www.npr.org/2022/11/28/1138396067/transgender-youth-bills-trans-sports; *see also, e.g.*, *Tracking the Rise of Anti-Trans Bills in the U.S.*, Trans Legislation Tracker, https://translegislation.com/learn (last visited Aug. 29, 2024).

[31] Nakajima & Jin, *supra* note 30.

[32] *See* Emma Chinn et al., *LGBTQ Tennesseans: A Report of the 2021 Southern LGBTQ Experience Survey* at 21, Campaign for Southern Equality (2023), https://southernequality.org/wp-content/uploads/2023/01/Report-LGBTQTennesseans.pdf (reporting that 77% of LGBTQ+ Tennesseans felt unsafe at school because of their actual or perceived gender in 2021);

and similarly targeted legislation send a clear message that transgender lives are less valuable than cisgender lives.

Research confirms this link between discriminatory legislation targeting the LGBTQ+ community and violence against that community. A 2024 *Washington Post* analysis found that the number of anti-LGBTQ+ hate crimes committed in schools and reported to local police more than doubled nationwide between 2015-2019 and 2021-2022, with a steeper rise in states that had passed laws targeting transgender students or restricting discussion of gender and sexuality in the classroom.[33] Data suggest that this surge in violence is exacerbated by discriminatory legislation. A 2023 report on transgender homicides from Everytown for Gun Safety found that since 2017, 45% of gun homicides of transgender and nonbinary persons occurred in the South, even though those states make up only 38% of the total United States population.[34] The Everytown report

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Out Leadership, *2024 State LGBTQ+ Business Climate Index* at 18 (June 3, 2024), https://outleadership.com/wp-content/uploads/2024/06/out_leadership_state_lgbtq__business_climate_index_6_3_2024.pdf (ranking Kentucky as 42nd and Tennessee as 46th in terms of LGBTQ+ inclusion); Rob Gabriele, *2024 LGBTQ+ State Safety Report Cards*, SafeHome (Aug. 7, 2024), https://www.safehome.org/data-lgbtq-state-safety-rankings (ranking Tennessee as 25th and Kentucky as 44th on the list of safe states for LGBTQ+ individuals).

[33] Meckler et al., *supra* note 10.

[34] Kate Reese & Sarah Burd-Sharps, *Freedom from Fear of Hate-Fueled Violence: Preventing Transgender Homicides*, Everytown for Gun Safety (Mar. 12, 2024), https://everytownresearch.org/freedom-from-fear-of-hate-fueled-violence-preventing-transgender-homicides; *see also* Human Rights Campaign, *Map: Attacks on Gender Affirming Care by State*, https://www.hrc.org/resources/

further found that 59% of transgender and nonbinary homicide victims were under the age of 30,[35] highlighting the particular vulnerability of transgender and gender-nonconforming youth and young adults.[36] This is the real-world impact of SB1 and legislation targeting the transgender community: such laws are correlated with a climate of hostility that puts transgender individuals directly at risk, whether or not they have access to or choose to undergo gender-affirming medical care. Discriminatory legislation establishes a societal norm that devalues transgender lives and implicitly condones violence against transgender people.[37]

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attacks-on-gender-affirming-care-by-state-map (last visited Aug. 9, 2024).

[35] Reese & Burd-Sharps, *Freedom from Fear of Hate-Fueled Violence*, *supra* note 34.

[36] *See, e.g.*, Everytown for Gun Safety, *New Everytown Analysis: First Half of 2021-2022 School Year Had Most School Gun Violence In Recent History* (Feb. 11, 2022), https://www.everytown.org/press/new-everytown-analysis-first-half-of-2021-2022-school-year-had-most-school-gun-violence-in-recent-history ("In the first half of [that] school year, 96 people were shot and wounded and 26 others were killed[.]"); Chinn et al., *supra* note 32, at 21 (reporting that more than three-quarters of LGBTQ+ Tennesseans felt unsafe at school); Johns et al., *supra* note 29, at 69 (reporting that nearly a quarter of transgender students have been threatened or injured with a weapon at school).

[37] Meckler et al., *supra* note 10. Further, in 2022 the FBI recorded the highest number of hate crimes against transgender and gender nonconforming people in its history, and in 2023, for the first time in its nearly half-century history, the Human Rights Campaign declared a national state of emergency for LGBTQ+ Americans, citing more than 550 anti-LGBTQ+ policies introduced in state houses across the country. *See* Human Rights Campaign, *National State of Emergency for LGBTQ+ Americans*, https://www.hrc.org/campaigns/national-

Unlike SB1 and similar legislation, policies that permit and protect access to gender-affirming care for transgender youth serve as a vital shield against the epidemic of violence they face. These policies do more than just "send[] a signal about whose lives are considered important"[38]; they also serve a protective role and actively save lives by ***reducing*** the risk of violent victimization.[39] They send a powerful message that transgender lives are valued and deserving of protection. This stands in contrast to the *de*valuation of transgender lives communicated by SB1.

SB1 is poised to have a catastrophic effect on the safety of transgender youth. By denying access to gender-affirming medical care, SB1 not only inhibits the ability of transgender youth to present as their authentic selves safely in society, but it also perpetuates the dangerous and baseless perception that transgender individuals who seek medical

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state-of-emergency-for-lgbtq-americans (last visited Aug. 22, 2024); Human Rights Campaign, *The Epidemic of Violence Against the Transgender and Gender Non-Conforming Community*, *supra* note 9.

[38] Nora Neus, *Transgender Deaths in US on Rise with Increase in Anti-Trans Laws, Report Shows*, Guardian (Nov. 22, 2023), https://www.theguardian.com/society/2023/nov/22/transgender-deaths-rememberance-report.

[39] *See, e.g.*, *id.* (explaining that policies "send[] a signal about whose lives are considered important"); The Trevor Project, *2024 U.S. National Survey*, *supra* note 24 (finding that transgender and nonbinary people who "found their school to be gender-affirming . . . reported lower rates of attempting suicide"); Meckler et al., *supra* note 10 (noting the rise in hate crimes against LGBTQ+ youth at schools is "steeper in the 28 states that have passed laws curbing the rights of transgender students").

transition pose a threat to society.[40] This dual effect—increasing transgender individuals' visibility as potential targets while also stoking societal fears—creates a perfect storm of increased violence against an already vulnerable population.

II. DENYING TRANSGENDER YOUTH GENDER-AFFIRMING MEDICAL CARE PLACES THEM AT A HIGHER RISK OF SUFFERING SELF-INFLICTED HARM OR DYING BY SUICIDE USING FIREARMS

Death by suicide is a major concern in the transgender community, and legislation that increases barriers to gender-affirming medical care—such as SB1—increases the risk of death by suicide for transgender youth barred from receiving care. As compared to the cisgender population, transgender people are ***significantly*** more likely to consider, attempt, and die by suicide. For example, a 2015 survey found that 40% of transgender respondents reported attempting suicide at some point in their

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[40] *See* Tenn. Code Ann. § 68-33-101(m) (stating that Tennessee has an interest in "encouraging minors to appreciate their sex" and describing gender-affirming care as "harmful, unethical, [and] immoral"); *see also* Ryan Womack, *Should Schools Notify Parents if Their Child Claims to Be Transgender?*, All. Def. Freedom (Oct. 18, 2022), https://adflegal.org/article/should-schools-notify-parents-if-their-child-claims-be-transgender (claiming that "confusing" people about "biological reality" is "an existential threat to society"); Andrew DeMillo, *Trans People Face Hostile Rhetoric from State Lawmakers*, PBS (Feb. 27, 2023), https://www.pbs.org/newshour/nation/trans-people-face-hostile-rhetoric-from-state-lawmakers (describing anti-transgender rhetoric, including that transgender advocates want to "destroy our families").

lives.[41] Almost half of transgender respondents in that survey (48%) reported that they had experienced suicidal ideation[42] in the past year, while 82% of transgender respondents reported that they had "serious thoughts of suicide" at some point in their lives.[43] Further, nearly ***a quarter*** of transgender respondents made plans to die by suicide in the past year.[44] Comparing these numbers to the same statistics for cisgender individuals illustrates a sobering fact: transgender people are ***nearly ten times as likely*** to have attempted suicide than are their cisgender counterparts, and are ***more than ten times as likely*** to have experienced suicidal ideation.[45]

Transgender youth, including those affected by bans on gender-affirming care, report experiencing suicidal ideation and attempting suicide at rates comparable to those of transgender adults. A 2019

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[41] This is compared to just 4.6% of the U.S. population. Sandy E. James et al., *The Report of the 2015 U.S. Transgender Survey* at 112, Nat'l Ctr. for Transgender Equality (2016), https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf.

[42] Suicidal ideation (also known as suicidal ideas) consists of "[t]houghts about self-harm, with deliberate consideration or planning of possible techniques of causing one's own death." Am. Psychiatric Ass'n, Diagnostic and Statistical Manual of Mental Disorders 830 (5th ed. 2013).

[43] As compared to 4% of the total United States population. James et al., *The Report of the 2015 U.S. Transgender Survey*, *supra* note 41, at 112.

[44] As compared to 1.1% of the total United States population. *Id.*

[45] *Id.* (finding that only 4% of the total United States population reported suicidal ideation in the past year and only 0.6% of the total United States population attempted suicide in the past year).

study found that 34.6% of transgender youth had attempted suicide in the previous year, as compared to 9.1% of their cisgender counterparts.[46] In other words, a transgender minor was ***four times*** more likely to not only think of suicide, but to act on those thoughts, on an annual basis.[47]

Gender-affirming medical care provides one highly significant way to help save some of these lives. In states where gender-affirming medical care is available to transgender youth, transgender individuals who receive that care report feeling more satisfied with their lives than they had been prior to receiving that care. Indeed, experts explain that access to gender-affirming medical care is linked to substantially greater satisfaction with life, which in turn decreases the risk of suicidality.[48] Nearly 98% of transgender youth receiving hormone treatment, a type of care banned by SB1, reported in a 2022 survey that they felt more satisfied with their lives than they had before treatment, with 84% reporting that they were "a lot more satisfied," and 14% reporting that they were "a little more satisfied."[49]

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[46] Johns et al., *supra* note 29, at 69. These risks are heightened among transgender girls; one study found that ***over half*** of female transgender adolescents reported suicide attempts. Russell B. Toomey et al., *Transgender Adolescent Suicide Behavior*, 142 Pediatrics, no. 4, 2018, at 5-6. Disparities in suicidality follow racial and ethnic lines as well, with LGBTQ+ youth of color reporting having considered and attempted suicide at higher rates than their white LGBTQ+ peers. *See* The Trevor Project, *2024 U.S. National Survey*, *supra* note 24.

[47] Johns et al., *supra* note 29, at 69.

[48] *See* Green et al., *supra* note 13, at 647; Bauer et al., *supra* note 13, at 12-13.

[49] James et al., *Early Insights: A Report of the 2022 U.S. Transgender Survey*, *supra* note 23, at 18.

This life satisfaction has real-world, tangible effects on suicide rates of transgender youth. For example, a 2022 study of 104 transgender and nonbinary youth, ages 13 to 20, found that suicidality decreased 73% over the 12 months following the receipt of gender-affirming medical care.[50] Gender-affirming medical care in one study was also associated with 60% lower odds of moderate or severe depression.[51] Similar studies in major medical journals are consistent with these findings. A 2021 peer-reviewed study published in the *Journal of Adolescent Health* found that gender-affirming hormone therapy was "significantly related to lower rates of depression and suicidality among transgender and nonbinary youth."[52]

Indirectly, SB1 and similar legislation stigmatize transgender youth and send a message to them—and to society as a whole—that transgender youth are different and not entitled to equal treatment. The extent to which transgender youth feel accepted in their communities is heavily correlated with their wellbeing and their propensity to engage in suicidal behavior. A 2024 survey found that "LGBTQ+ young people who reported living in very accepting

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[50] Tordoff et al., *supra* note 14, at 1.

[51] *Id.* The gender-affirming medical care administered in this study included puberty blockers and hormone treatment, interventions that are banned under SB1.

[52] Green et al., *supra* note 13, at 1; *see also* The Trevor Project, *Facts About Suicide Among LGBTQ+ Young People*, https://www.thetrevorproject.org/resources/article/facts-about-lgbtq-youth-suicide (last updated Jan. 2024) (referencing Green et al., *supra* note 13); J.A. at 966-67 (access to puberty blockers is similarly associated with "lower levels of anxiety, improvement in depression, [and] more interactivity at school and with [ ] peers").

communities attempted suicide at ***less than half the rate*** of those who reported living in very unaccepting communities."[53] That survey also found that transgender and nonbinary youth who felt their school was gender-affirming reported lower rates of attempting suicide.[54]

Suicide risks also increase when transgender youth face community violence. Research shows that transgender youth who face violence because they are transgender are more likely to die by suicide; the ***single*** strongest predictor of suicidal behavior in youth, after a prior suicide attempt, is "LGBT victimization" (defined as "experiences of property damage and verbal and physical threats or assault against" an individual within the preceding six months because they "are, or were thought to be, gay, lesbian, bisexual, or transgender").[55]

Discriminatory legislation puts transgender youth at an increased risk of suicide for another reason: healthcare providers that provide gender-affirming medical care face civil liability and loss of license, creating an environment in which transgender youth are likely to feel less supported by their medical providers. Under SB1, healthcare providers are not only prohibited from administering or offering gender-affirming medical procedures, but also from treating "purported discomfort or distress from a discordance between the minor's sex and asserted

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[53] The Trevor Project, *2024 U.S. National Survey*, *supra* note 24 (emphasis added).

[54] *Id.*

[55] Richard T. Liu & Brian Mustanki, *Suicidal Ideation and Self-Harm in Lesbian, Gay, Bisexual, and Transgender Youth*, 42 Am. J. Preventive Med. 221, 226 (2012); *see also* Meckler et al., *supra* note 10.

identity." *See* Tenn. Code Ann. § 68-33-103(a)(1)(A)-(B).[56] This environment, which requires a physician to treat patient "discomfort or distress" with skepticism—all while considering her own potential liability—puts already vulnerable transgender youth at great danger of encountering unsupportive medical providers.[57] This has a potentially devastating impact, as the support of medical providers is critical to decreasing the risk of suicide among transgender youth: a 2015 survey found that "[p]articipants who had a professional try to stop them from being transgender were . . . [m]ore likely to have attempted suicide (58%) than those who did not have the

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[56] SB1 not only creates a private right of action "to recover compensatory damages, punitive damages, and reasonable attorney's fees, court costs, and expenses, against [a] healthcare provider alleged to have violated" SB1 (Tenn. Code Ann. § 68-33-105(a)(1)), but also empowers Tennessee's attorney general to "bring an action against a healthcare provider . . . that knowingly violates" SB1 "to recover a civil penalty of twenty-five thousand dollars" for "[e]ach time a healthcare provider performs or administers a medical procedure in violation of" SB1 (*id.* § 68-33-106(b)), and directs state regulators to sanction healthcare providers who violate SB1 (*id.* § 68-33-107).

[57] In Kentucky, SB150 bars the provision of drugs or hormones "to delay or stop normal puberty," forcing medical providers to determine what constitutes "normal puberty." Ky. Rev. Stat. Ann. § 311.372(2)(a). As in Tennessee, healthcare providers in Kentucky violating SB150 risk civil penalties and their licenses. *Id.* §§ 311.372(4), (5)(a)-(b) (directing state regulators to "revoke [a] health care provider's licensure or certification" upon finding a violation of SB150 and providing that a "civil action to recover damages for injury suffered as a result of a violation of" SB150 "may be commenced" any time before a person injured by the violation reaches the age of 30 or within three years of when they discovered or should have discovered that injury).

experience . . . ."[58] By contributing to the risk that transgender youth feel unsupported by their own medical providers, SB1 and similar legislation will aggravate the already high and increasing risk of suicide that transgender youth confront.

In the face of the ongoing gun violence crisis gripping our nation, ensuring access to gender-affirming care for transgender youth is not merely a matter of medical necessity—it is a crucial component in our fight against the epidemic of gun violence that disproportionately threatens this vulnerable population. Transgender youth report having similar access to firearms as their cisgender peers, with almost 40% of LGBTQ+ youth reporting access to at least one firearm in their home (as compared to 46% of cisgender boys and men), a level of firearm availability that becomes terrifyingly significant when coupled with the higher rates of suicidal ideation and suicide attempts among this group.[59] Preserving access to this necessary medical treatment reduces the risk that those with access to firearms will use them for self-harm.

The intersection of easy firearm access and the mental health struggles faced by many transgender youths creates an environment ripe for potential tragedy. Research unequivocally shows that access to

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[58] *See* James et al., *The Report of the 2015 U.S. Transgender Survey*, *supra* note 41, at 110.

[59] The Trevor Project, *The Relationship Between Firearms, Mass Shootings and Suicide Risk Among LGBTQ+ Young People*, *supra* note 19; *see also* Matthew Miller & Deborah Azrael, *Firearm Storage in US Households with Children*, 5 JAMA Network Open, no. 2, 2022, at 1 (40.4% of survey respondents with children reported living in a household with firearms, indicating approximately 30 million children lived in households with firearms).

firearms is correlated with an increased risk of suicide. People living in households where guns are present are two-to-five times more likely to die by suicide, and youth are at an even greater risk.[60] All told, in 2021, the grim reality is that half of all firearm-related deaths in the United States were suicides, and more than half of all suicides involved a firearm.[61] Youth are especially at risk for firearm-involved suicide when firearms are present in their homes,[62] and firearms are the leading cause of death for youth ages 13 to 24.[63] Moreover, suicide attempts via firearm are significantly deadlier than suicide attempts via any other method: nine in ten suicide attempts with a firearm result in death.[64]

The tragic confluence of these factors is reflected in the incidence of suicide among transgender youth. Of those LGBTQ+ youth who report access to a firearm at home, 43% also reported seriously considering suicide within the past year, and 13% did attempt

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[60] Barber & Miller, *supra* note 17, at S266; *see also* Giffords, *Gun Suicide*, *supra* note 17 ("[S]uicide is three times more likely in gun-owning households.").

[61] John Gramlich, *What the Data Says about Gun Deaths in the U.S.*, Pew Rsch. Ctr. (Apr. 26, 2023), https://www.pewresearch.org/short-reads/2023/04/26/what-the-data-says-about-gun-deaths-in-the-u-s.

[62] Barber & Miller, *supra* note 17, at S266.

[63] The Trevor Project, *The Relationship Between Firearms, Mass Shootings and Suicide Risk Among LGBTQ+ Young People, supra* note 19.

[64] Andrew Conner et al., *Suicide Case-Fatality Rates in the United States, 2007 to 2014*, 171 Annals Internal Med. 885, 892 (2019); Ziyi Cai et al., *The Lethality of Suicide Methods: A Systematic Review and Meta-Analysis*, 300 J. Affective Disorders 121, 126 (2022).

suicide.[65] By dramatically reducing the risk of suicidal ideation and suicide attempts among transgender youth, access to gender-affirming medical care acts as a powerful antidote to the toxic mix of easy gun access and the mental health challenges faced by many transgender youths. In contrast, by curtailing access to this care, SB1 and similar legislation does nothing but contribute to the spread of the ultimate irreversible harm: death.

* * *

SB1 violates the Constitution's fundamental promise of equal protection and the Constitution's structured protections of public safety and personal security. The Constitution does not contemplate a lawless state of nature. Through the structures of government that it establishes—and the individual rights that it protects—the Constitution strives toward public order. In this way, the Constitution seeks to create a safe and secure society in which "We the People" coexist peacefully as we go about our lives. Or, as Judge Wilkinson recently wrote in another context, "[m]uch as the branch of a willow offers a gentle bend so that the wind may blow and the birds may nest, so too did our predecessors craft a political community in which rights must sometimes bend to better accommodate the rights of others." *Bianchi v. Brown*, No. 21-1255, 2024 WL 3666180, at *26 (4th Cir. Aug. 6, 2024).

SB1 is an affront to this constitutional framework. Our Constitution is designed to ensure the safety and well-being of all Americans—to "establish Justice,"

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[65] The Trevor Project, *The Relationship Between Firearms, Mass Shootings and Suicide Risk Among LGBTQ+ Young People, supra* note 19.

"insure domestic Tranquility," and "promote the general Welfare." U.S. CONST. pmbl. It does not and will not tolerate laws motivated by "prejudice against discrete and insular minorities," *United States v. Carolene Products Co.*, 304 U.S. 144, 152 n.4 (1983), or by a "bare . . . desire to harm a politically unpopular group." *Romer*, 517 U.S. at 634-35 (quoting *Dep't of Agric. v. Moreno*, 431 U.S. 528, 534 (1973)). Such laws, that by their very existence inflict "immediate, continuing, and real injuries that outrun and belie any legitimate justifications," are antithetical to the ordered society our Constitution creates. *Id.* at 635.

As described *supra*, the consequences of SB1 are far-reaching and life-threatening, because "when LGBTQ+ people's rights and existence are up for debate, it creates a culture in which hate-motivated crimes are commonplace."[66] In other words, SB1 and similar discriminatory legislation create an atmosphere in which "the trans community is at risk of being harmed, simply because these bills exist—simply because people are spending time and engaging in rhetoric around the trans community that is stigmatizing, because they're signaling that these folks don't have the rights that other folks have."[67]

The Fourteenth Amendment's Equal Protection Clause is a promise that stands at the core of our

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[66] Everytown for Gun Safety, *Everytown Report Highlights Impact of Gun Violence on LGBTQ+ Communities* (Oct. 11, 2022), https://everytownsupportfund.org/press/updated-everytown-report-highlights-impact-of-gun-violence-on-lgbtq-communities.

[67] Amy Novotney, *'The Young People Feel It': A Look at the Mental Health Impact of Transgender Legislation*, Am. Psych. Ass'n (June 29, 2023), https://www.apa.org/topics/lgbtq/mental-health-anti-transgender-legislation.

ordered government: a promise of "absolute equality of all citizens of the United States politically and civilly before their own laws." *Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll.*, 600 U.S. 181, 201 (2023) (quoting Cong. Globe, 39th Cong., 1st Sess., 431 (1866) (statement of Rep. Bingham)). As often is the case in the story of America, it is a promise not always realized, a promise overlooked and stifled by legislatures, presidents, and courts for far too long.[68] And yet, "[a] prime part of the history of our Constitution . . . is the story of the extension of constitutional rights and protections to people once ignored or excluded." *VMI*, 518 U.S. at 557.

This case represents another chapter in that unfolding story. To refuse to enforce the promise of equal protection simply "because the parties before us happened to be unpopular . . . would tilt the scales of justice in favor of the strong or popular and neglect the promise that all persons are entitled to the benefit of the law's terms." *Bostock v. Clayton Cnty.*, 590 U.S. 644, 678 (2020). Today, this Court should reaffirm this foundational promise of equal protection and strike down the challenged law.

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[68] *See Students for Fair Admissions, Inc.*, 600 U.S. at 202–03 ("Despite our early recognition of the broad sweep of the Equal Protection Clause, this Court—alongside the country—quickly failed to live up to the Clause's core commitments."); *see also Oklahoma v. Castro-Huerta*, 597 U.S. 629, 696 (2022) (Gorsuch, J., dissenting) ("In the 1830s, this Court struggled to keep our Nation's promises to the Cherokee . . . . One can only hope the political branches and future courts will do their duty to honor this Nation's promises even as we have failed today to do our own.").

CONCLUSION

For all of the reasons set forth herein, Giffords Law Center, Brady, Team ENOUGH, and MFOL respectfully ask that the Court reverse the judgment of the Sixth Circuit.

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