

Essential Medical Care for Transgender Youth in Texas: What You Need to Know¹

Background

- Feb. 21 – Attorney General Paxton released a [non-binding opinion](#) to express his view that certain treatments transgender youth rely on to alleviate symptoms of gender dysphoria could constitute “abuse” under Texas law.
- Feb. 22 - Governor Abbott sent [a letter](#) to the Department of Family Protective Services (DFPS), in which he declared that DFPS is required to investigate these treatments as potential abuse.
 - That same day, DFPS issued a statement to the media that the agency would comply with Abbott’s letter and “investigate” any reports of the procedures outlined in Paxton’s opinion.
- March 1 - the ACLU of Texas, ACLU, Lambda Legal, and the law firm Baker Botts sued DFPS, Commissioner Jamie Masters, and Abbott in Texas state court on behalf of a family investigated by DFPS and a licensed psychologist who is a mandatory reporter of abuse under Texas law.
- March 2 - the district court issued a temporary restraining order that blocked DFPS, Masters, and Abbott from taking any actions against the specific plaintiffs in the case.
- March 11 - the district court expanded that order to stop DFPS statewide from investigating medically necessary health care for gender dysphoria as abuse.
 - At a hearing, a DFPS supervisor testified that investigators had been told to treat investigations of transgender youth differently from all other allegations of abuse and neglect and that they were forced to prioritize them and told in writing not to put anything about these cases in writing.
 - The district court found that DFPS’s actions and Abbott’s letter likely violated Texas law, were unconstitutional, and caused irreparable harm.
 - On March 21, this statewide order was reaffirmed by an appeals court.
- That statewide order remained in place for eight weeks, but Paxton, Abbott, and DFPS’s actions caused deep and immediate harm across the state. Texas saw a sharp increase in calls to mental health hotlines, a surge in bullying and discrimination against transgender students in schools, and an exodus of families moving out of state.

Texas Supreme Court Decision – Paxton’s Opinion and Abbott’s Letter Are Not Binding and Have No Effect on DFPS

- On May 13, the Texas Supreme Court issued an order that left in place the majority of the court orders below—including the findings that Abbott’s letter and DFPS’s actions were likely unlawful, unconstitutional, and caused irreparable harm.
 - But the Texas Supreme Court found that the appeals court lacked the authority to issue a statewide order and limited the orders currently in effect to the Doe family and Dr. Mooney who filed suit.

¹ This fact sheet is intended to serve as general information; it is not legal advice nor intended as legal advice. This fact sheet was last updated on May 19, 2022.

- In its decision, the Texas Supreme Court made clear that Paxton’s opinion and Abbott’s letter are non-binding and unenforceable. Texas law has not changed from what it was before DFPS’s challenged actions.

What Else Is Helpful to Know?

- **The Supreme Court implicitly affirmed the appeals court’s finding that DFPS’s investigation of the Doe family would cause irreparable harm, a finding that still remains in effect.**
 - This same reasoning applies statewide to other families—even though no one else is explicitly covered by that order.
- **It is unconstitutional for the government to deprive transgender young people of necessary medical care or violate the rights of parents to provide medical care to their children.**
 - Federal courts in Arkansas and Alabama blocked laws that were the first in the country to try to ban medical care for transgender youth, finding them likely unconstitutional and unlawful.
 - Essential medical care for transgender youth is still fully legal and being provided in Texas, Arkansas, Alabama, and every state.
- **Health care for transgender youth is lifesaving, medically necessary care.**
 - Paxton’s opinion confusingly states that it “does not address or apply to medically necessary procedures,” but [every major medical association](#) has made clear that treatments like puberty blockers and hormone therapy are medically necessary for certain youth.
 - Health care for transgender youth is still fully legal in Texas, and any doctor or hospital that cuts off or denies care to transgender youth may be committing sex discrimination in violation of federal law, as [recently explained by the U.S. Department of Health and Human Services](#).
- **Mandatory reporters have no duty to report transgender young people for medically necessary health care that they receive.**
 - The Texas Supreme Court stated that no Texas law has changed and Paxton’s opinion and Abbott’s letter have no legal effect.
 - An appeals court order is also still in place that Dr. Mooney does not have to report any of her clients, and this reasoning applies statewide so that no one has any duty to report anyone for providing essential health care.
- **Federal law protects transgender students’ privacy in schools.**
 - The Family Educational Rights and Privacy Act (FERPA) protects young people’s private medical information, including whether students are transgender. Teachers, principals, and others should not invade your child’s privacy or disclose that information to anyone else.

What Happens Next?

- On May 19, DFPS issued a statement that “DFPS treats all reports of abuse, neglect, and exploitation seriously and will continue to investigate each to the full extent of the law.”
 - It is not yet clear what this statement means. While DFPS receives many reports of abuse and neglect, it must follow Texas laws and procedures and often screens out reports that do not meet the definition of abuse.
 - The district court found that DFPS likely violated Texas law and its own procedures by prohibiting investigators from screening out or deprioritizing investigations of transgender youth and their families.
- We are closely monitoring these investigations and what DFPS does. We have legal options and protections, particularly since the Texas Supreme Court left in place the lower court orders that DFPS’s investigation of the Doe family is likely illegal and caused irreparable harm.
 - With that order in place, Commissioner Masters and DFPS should not push forward or prioritize these investigations, which are unlawful and cause immeasurable harm.
 - Attempting to move forward with these investigations would be unconstitutional, illegal, cruel, and a waste of taxpayer resources at a time when DFPS is already facing numerous crises and challenges.

If You or Someone You Know Is Impacted or Affected by This

- Document what is happening and try to get as much information as possible.
- Remember that you and your family have a right to privacy and you do not have to disclose whether your child is transgender. Nor do you have to disclose any private medical information to anyone and you have a right to an attorney.
- Do not allow a DFPS investigator into your home.
- Do not sign any document asking you to release any of you or your child’s private records (medical or otherwise) without consulting with an attorney.
- Advise your child not to talk to DFPS without your presence or an attorney.
- If you or someone you know is contacted by DFPS or you are aware of any investigations moving forward, please contact us right away.
- We have a team of child welfare law attorneys willing to represent families and youth in many instances for free who are impacted by Abbott and DFPS’s actions.

If you or anyone you know is impacted by this order or an investigation or report of child abuse for medically necessary health care for transgender youth, please reach out to:

- Lambda Legal: <https://www.lambdalegal.org/helpdesk>
- ACLU of Texas: <https://intake.aclutx.org/>

Stay up-to-date on any new developments at TxTransKids.org and join us in advocating for Abbott, Commissioner Masters, and DFPS to permanently end these attacks on transgender youth, along with our allies who are actively fighting with us to ensure that transgender young people can continue to live and thrive here in Texas:

- Transgender Education Network of Texas (TENT): <https://www.transtexas.org/>
- Equality Texas: <https://www.equalitytexas.org/>
- Texas Freedom Network: <https://tfn.org/>
- Human Rights Campaign: <https://www.hrc.org/>
- Transgender Legal Defense and Education Fund (TLDEF): <https://transgenderlegal.org/>