

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

INTERNATIONAL PARTNERS FOR
ETHICAL CARE, INC., ADVOCATES
PROTECTING CHILDREN, PARENT 1A,
PARENT 1B, PARENT 2A, PARENT 2B,
PARENT 3A, PARENT 3B, PARENT 4A, and
PARENT 4B,

Plaintiffs,

v.

No. 3:23-cv-5736

JAY INSLEE, Governor of Washington, in his
official capacity; ROBERT FERGUSON,
Attorney General of Washington, in his official
capacity; and ROSS HUNTER, Secretary of the
Washington Department of Children, Youth,
and Families, in his official capacity,

COMPLAINT

Defendants.

I. INTRODUCTION

1. This lawsuit against Washington state officials is about whether a minor child who is receiving or even just seeking so-called “gender-affirming” treatment—which includes services that alter body parts, prescribe life-altering medications, and other related things—showing up at a youth shelter, homeless shelter, or a host home, provides sufficient grounds to steamroll parental constitutional rights. Under recently enacted SB 5599, that answer is “yes.” Under the United States Constitution and the Washington State Constitution, however, that answer is “no.”

2. This lawsuit challenges Engrossed Senate Substitute Bill (SB) 5599 of the 2023 Regular Session of the 68th Legislature of Washington State, which is codified in relevant part at

1 Revised Code of Washington (Wash. Rev. Code.) § 13.32A.082(3), and took effect July 23, 2023.

2 The statute infringes on parental constitutional rights.

3 3. It takes away a requirement of notice to parents.

4 4. It authorizes the State to refer a minor for “behavioral health services” without
5 defining what that entails, potentially meaning that a minor could receive—at least—mental health
6 services that the parents would not endorse, and arguably also medical treatment that the parents
7 would not authorize. There is no age minimum in SB 5599 for such services.

8 5. SB 5599 also delays when parents can get their children back from the State’s
9 control.

10 6. In short, this statute allows shelters and homes to keep children at locations without
11 their parents’ knowledge and refer those children for health interventions without their parents’
12 knowledge or approval. It does not require children to be returned on any particular timetable or
13 under any particular conditions.

14 7. This suit is thus brought as a pre-enforcement challenge against statewide officials,
15 in their official capacities, over this new Washington statute that discriminatorily deprives certain
16 parents—but not all parents—of their fundamental right under the U.S. Constitution to direct the
17 care and upbringing of their children, as well as their rights to the free exercise of religion, due
18 process, free speech, and equal protection. Plaintiffs bring this suit pursuant to 42 U.S.C. § 1983
19 because Defendants are acting under color of state law in violating Plaintiffs’ rights under the First
20 and Fourteenth Amendments to the U.S. Constitution.

21 **II. PARTIES.**

22 8. Plaintiff International Partners for Ethical Care, Inc., is a nonprofit organization
23 incorporated in the State of Illinois and recognized as a charitable or educational public benefit
24 organization under Section 501(c)(3) of the Internal Revenue Code. The organization’s “mission
25 is to stop the unethical treatment of children by schools, hospitals, and mental and medical
26 healthcare providers under the duplicitous banner of gender identity affirmation.” Partners for
27 Ethical Care Homepage, <https://tinyurl.com/4nrp5vn9> (last visited Aug. 15, 2023). Members of

1 this organization include approximately two dozen parents in the State of Washington, including
2 at least one resident of the State of Washington who is a parent in the state with a transgender
3 minor child.

4 9. Advocates Protecting Children is a nonprofit 501(c)(3) organization. It is
5 “dedicated to fighting the gender industry, and especially its predation on children in the form of
6 unethical social and medical transition for the sake of political and financial profit.” About Us,
7 Advocates Protecting Children, <https://tinyurl.com/3kun8vf2> (last visited Aug. 16, 2023).

8 10. Parent 1A is a citizen of Washington and the mother of a 14-year-old biological girl
9 who previously identified as a boy, whom we will call 1C.

10 11. Parent 1B is the husband of Parent 1A and father of 1C. He is a citizen of
11 Washington.

12 12. The prior gender transition of 1C took place at school, unbeknownst to her parents,
13 where the school encouraged the transition, including through meeting for two and a half months
14 with a school counselor. 1C, after being removed from public school, de-transitioned and now again
15 identifies as a girl. But 1A and 1B believe that when they put 1C back in school this fall, through the
16 school’s efforts which the school kept hidden from 1A and 1B, 1C will transition again and run away
17 from home.

18 13. Parent 2A is the mother of two transgender children: 2C, a biological girl who
19 identifies as a boy and recently turned age 18, and 2D, another biological girl who identifies as a
20 boy, is age 13. 2A is a citizen of Washington.

21 14. Parent 2B is the husband of Parent 2A, the father of 2C and 2D, and a citizen of
22 Washington.

23 15. Parent 3A is the mother of a transgender child, 3C, a 14-year-old biological boy who
24 identifies as a girl. 3C is also autistic. 3A is a citizen of Washington.

25 16. Parent 3B is the husband of Parent 3A and the father of 3C. He is a citizen of
26 Washington.

27

1 17. 3A and 3B are Roman Catholic. They believe in the teachings of the Roman Catholic
2 Church on gender transitions and identity.

3 18. Parent 4A is the mother of three children, including 4C, who is an eight-year-old
4 girl, and 4D, a six-year-old boy. 4A is a citizen of Washington.

5 19. Parent 4B is the husband of 4A and the father of 4C and 4D. He is a citizen of
6 Washington.

7 20. 4A and 4B are non-denominational Christians who believe the Bible is the Word of
8 God and, as such, is authoritative on every issue to which it speaks. They believe the topics on
9 which the Bible provides teachings include gender transitions and identity.

10 21. Defendant Jay Inslee is the Governor of the State of Washington. As such, he must
11 enforce the laws of that state. *See* Wash. Const. art. III, § 5. Governor Inslee also supervises the
12 Department Secretary who administers SB 5599, and the Governor has the authority to remove
13 the Secretary, as discussed below.

14 22. Governor Inslee signed SB 5599 on May 9, 2023.

15 23. Governor Inslee is sued in his official capacity.

16 24. Defendant Robert Ferguson is the Attorney General of Washington. As such, he is
17 responsible for the legal defense of state statutes, including SB 5599. *See* Wash. Const. art. III, § 1;
18 Wash. Rev. Code § 43.10.030.

19 25. Attorney General Ferguson is sued in his official capacity.

20 26. SB 5599 is administered by the Washington State Department of Children, Youth,
21 and Families (“the Department” or “DCYF”).

22 27. The Department is an agency in the executive branch of the State of Washington.
23 Wash. Rev. Code § 43.216.015.

24 28. Defendant Ross Hunter is Secretary of the Washington State Department of
25 Children, Youth, and Families.

1 38. In Washington, the baseline rule governing parental rights when children go to a
2 shelter is that when a shelter “knows at the time of providing the shelter that the child is away from
3 a lawfully prescribed residence or home without parental permission, it must contact the youth’s
4 parent within 72 hours, but preferably within 24 hours, following the time that the youth is
5 admitted to the shelter or other licensed organization’s program.” Wash. Rev. Code §
6 13.32A.082(1)(b)(i). Further, that “notification must include the whereabouts of the youth, a
7 description of the youth’s physical and emotional condition, and the circumstances surrounding
8 the youth’s contact with the shelter or organization.” *Id.*

9 39. Thus, under this baseline rule, no later than 72 hours after a minor shows up at a
10 shelter, parents must be told exactly where the child is, as well as how the child is and how the child
11 ended up at the shelter, and the parents are free to go pick up their child and take him or her home.

12 40. The only exception to this statutorily imposed duty of shelters is that “[i]f there are
13 compelling reasons not to notify the parent, the shelter or organization must instead notify the
14 department”—that is, the state Department of Children, Youth and Families. *Id.* (emphasis
15 added). Additionally, “compelling reasons” were previously defined as “circumstances that
16 indicate that notifying the parent or legal guardian will subject the minor to abuse or neglect as
17 defined in [another code section].” *Id.* § 13.32A.082(2)(c).

18 41. But SB 5599 expanded the definition of “compelling reasons” to now also include
19 “[w]hen a minor is seeking or receiving protected health care services.” *Id.* § 13.32A.082(2)(c)(ii).
20 And “‘protected health care services’ means ‘gender affirming treatment’ as defined in [another
21 code section].” *Id.* § 13.32A.082(2)(d).

22 42. In other words, to determine whether the exception to the baseline rule applies,
23 there is no longer an inquiry into traditional abuse or neglect but merely a categorical triggering of
24 “compelling reasons” whenever a minor shows up at a shelter seeking certain health services. Put
25 another way, under SB 5599, a child merely showing up at a shelter or host home seeking or
26 receiving “gender-affirming” treatment is legally equivalent to “circumstances that indicate”
27 abuse or neglect.

1 43. Children run away for a host of reasons, including much less serious ones, such as:

- 2 • “birth of a new baby in the family;”
- 3 • “family financial worries;”
- 4 • “problems at school;”
- 5 • “peer pressure;”
- 6 • “failing or dropping out of school;”
- 7 • “death in the family;”
- 8 • “parents separating or divorcing or the arrival of a new stepparent;”
- 9 • “kids . . . drinking alcohol or taking drugs,”

10 *Running Away*, Nemours KidsHealth (June 2018), <https://tinyurl.com/5n6vjpev> (medically
11 reviewed by Steven Dowshen, MD).

12 44. Additionally, SB 5599, along with SHB 1406, another new statute that went into
13 effect at the same time, modifies a related provision, Wash. Rev. Code § 13.32A.082(3), to facilitate
14 potentially life-changing medical treatments for the child, without first providing adequate parental
15 notice or receiving parental consent. As modified, the latter provision now reads as follows, with
16 the SB 5599 amended provisions bolded and the SHB 1406 amended provisions italicized:

17 (3) (a) When the department receives a report under subsection (1) of this section, it
18 shall make a good faith attempt to notify the parent that a report has been received and
19 offer services to the youth and the family designed to resolve the conflict, including
20 offering family reconciliation services, and accomplish a reunification of the family. The
department shall offer services under this subsection as soon as possible, but no later
than three days, excluding weekends and holidays, following the receipt of a report
under subsection (1) of this section.

21 (b) When the department receives a report under subsection (1) of this section for a
22 minor who is seeking or receiving protected health care services, it shall:

23 (i) Offer to make referrals on behalf of the minor for appropriate behavioral health
services; and

24 (ii) Offer services designed to resolve the conflict and accomplish a reunification of the
25 family.

26 Wash. Rev. Code § 13.32A.082(3).
27

1 **B. Notice.**

2 45. These amendments appear to exempt from the usual parental notice requirement a
3 scenario in which a minor is seeking or receiving protected health care services, since the action
4 required in that specific scenario is covered by Subsection 3(b), which does not refer to parental
5 notification. That conclusion is reinforced by the “commonplace” rule “of statutory construction
6 that the specific governs the general.” *City & Cnty. of S.F. v. Trump*, 897 F.3d 1225, 1239 (9th Cir.
7 2018) (quoting *RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 566 U.S. 639, 645 (2012)).

8 46. Additionally, reading Subsection 3(a), which applies to scenarios where there are
9 compelling reasons not to notify parents, as simultaneously applying alongside Subsection 3(b),
10 which specifies the subset of compelling reasons in which minors are seeking or receiving protected
11 health services, would make 3(b)(ii) surplusage, since nearly the same thing is said in 3(a). Such
12 interpretation would violate the fundamental rule of statutory interpretation that a court must “if
13 possible . . . give effect to each word and clause in a statute.” *United States v. Lopez*, 998 F.3d 431,
14 440 (9th Cir. 2021). Thus, a fair reading of the new statutory provision would authorize potentially
15 life-changing medical treatments before notification to parents.

16 47. Additionally, when statutory language is unclear, conflicting, or silent, Washington
17 state courts resort to legislative history. *See Gorre v. City of Tacoma*, 357 P.3d 625, 631 (Wash. 2015)
18 (“We must therefore resort to other aids of statutory interpretation to resolve th[e] [statutory]
19 ambiguity. And one of those aids—legislative history—ends our analysis.” (citation omitted)); see
20 also *In re Marriage of Kovacs*, 854 P.2d 629, 634 (Wash. 1993) (“[I]n determining the legislative
21 purpose and intent the court may look beyond the language of the Act to legislative history.”).

22 48. The legislative history strongly indicates that the Washington State Legislature
23 intended to deprive parents of their ordinary parental rights when their child presents at a shelter
24 receiving or seeking “gender-affirming” treatment. As legal counsel for the Committee explained,
25 “Under this bill, they [i.e., personnel at a shelter or from the Department] do not need to contact
26 the parent if a compelling reason exists—which includes but is not limited to notifying the parent
27 will subject the minor to child abuse and neglect or the minor is seeking protected health care

1 services.” Hearing on SB 5599 Before the S. Hum. Servs. Comm., 68th Leg., 2023 Sess. (Feb. 14,
2 2023) (statement of Alison Mendiola, Coordinator & Counsel for the Comm, at 28:44-29:03),
3 available at <https://tinyurl.com/mry8dwta>.

4 49. Remarkably, under the text and legislative history of SB 5599, it appears that
5 parents of children with circumstances indicating that notifying the parent or legal guardian will
6 subject the child to abuse or neglect will still receive notification from the Department regarding
7 their child. In contrast, the parents of children without such circumstances who seek or receive
8 protected health services will not receive notification.

9 50. Nevertheless, Secretary Ross’s subordinates insist that SB 5599 would not operate
10 entirely in this manner, despite the statements above and below from the statute’s sponsors and
11 legislative supporters.

12 51. Natalie Green is Assistant Secretary of Child Welfare Field Operations at the
13 Department, and Steve Grilli is Assistant Secretary of Partnership, Prevention, and Services at the
14 Department. See *Our Leadership*, Wash. State Dep’t of Children, Youth & Families,
15 <https://tinyurl.com/9ryktvwh> (last visited Aug. 15, 2023).

16 52. On July 21, 2023, Green and Grilli issued a Policy Memo in which they claimed that,
17 in implementing SB 5599 regarding a homeless youth seeking “gender-affirming” treatment, a
18 caseworker must “[m]ake a good faith attempt to contact the youth’s parent or legal guardian to
19 offer FRS [i.e., family reconciliation services] to resolve the conflict and accomplish a reunification
20 of the family.” Natalie Green & Steve Grilli, Policy Memo: Changes to 3100, Family Reconciliation
21 Services Policy, Wash. Dep’t of Children, Youth & Families 2 (July 21, 2023),
22 <https://tinyurl.com/u5fzeu2x>.

23 53. The Memo goes on to specify that “[w]hen making a good faith attempt,
24 caseworkers must at minimum do the following,” and specifies as two of the items on that list,
25 “Ask the youth or shelter to provide contact information for the youth’s parents or legal guardians,
26 if known,” and, “Contact the parents or legal guardians as outlined in the current FRS policy, if
27

1 contact information is provided.” Id. (emphasis added). Should the child not provide such contact
2 information, the Memo indicates that no notification will be provided to the parents.

3 54. The Memo provides no explanation for why the lawmakers quoted below who
4 wrote, sponsored, and supported SB 5599, as well as the lawmakers quoted below who opposed the
5 bill, were all of one mind regarding the bill’s effect of denying parents notification when their
6 children are seeking or receiving protected health services. Nor does the Memo explain away the
7 clear meaning of the bill’s words, which contradict the Memo.

8 **C. Timing of Notice.**

9 55. Even if one reads the statute to violate general-specific and anti-surplusage canons
10 such that Subsection 3(a) also applies to everyone under Subsection 3(b), SB 5599 still changes the
11 timing of the notice to parents in a way that substantially impairs parental rights. Before SB 5599’s
12 amendments, a parent of a child receiving “gender-affirming” treatment who showed up at a
13 shelter without providing personnel any reason to suspect abuse or neglect would receive
14 notification within 72 hours. *See* Wash. Rev. Code § 13.32A.082(1)(b)(i).

15 56. But now, under the revised Subsection 3(a), assuming it even applies to these
16 parents, the Department does not have to provide parental notification until three business days
17 after they receive a report from the shelter. And the shelter does not have to provide a report to
18 the Department until 72 hours have elapsed (if there is even any time requirement at all in a
19 compelling reasons scenario—the statute is not clear).

20 57. Thus, SB 5599 and SHB 1406 change the notification time from 72 hours to as many
21 as nine days if a three-day weekend interrupts the three-business-day clock. Nearly an additional
22 week without notification can be an eternity for parents whose child is missing.

23 **D. Content of Notice.**

24 58. Next, assuming Subsection 3(a) applies to parents with minors seeking or receiving
25 protected health services, the statutory changes also alter the level of detail that must be provided
26 to parents. Ordinarily, without compelling reasons, the shelter must provide the child’s location,
27

1 condition, and circumstances for arriving at the shelter. *See* Wash. Rev. Code §
2 13.32A.082(1)(b)(i).

3 59. But under revised Subsection 3(a), all the Department must provide in its notice
4 about the child is that it received a report from a shelter. Nothing requires the Department to
5 provide the location, condition, or circumstances. Thus, parents will not know where their child is
6 or how he or she is doing, and without the former, they cannot go and get the child. So this change
7 in the law deprives certain parents—for whom there is no suspicion of neglect or abuse—of crucial
8 knowledge about their child and the ability to get their child from the shelter.

9 **E. Treatment for Child.**

10 60. The changes by SB 5599 also remove from parental control choices about treatment
11 for a child under Paragraph 3(b)(i). This provision now enables the Department to “[o]ffer to make
12 referrals on behalf of the minor for appropriate behavioral health services.” Nowhere is
13 “appropriate behavioral health services” defined in the statute or elsewhere in Washington state
14 law. And so, statutory silence requires a resort to legislative history.

15 61. Washington State Senator Marko Liis, a sponsor of SB 5599, explained during a
16 legislative hearing on his bill:

17 What this bill speaks to is when a young person is seeking certain essential health care
18 services, ... to make critical decisions about their future or seeking gender-affirming care
19 in the face of opposition and hostility from their family. In those cases where that
20 reunification process would separate that vulnerable young person from the health care
that they’re entitled to... When a family is standing between their young person and
essential health care services there, and we need to focus on the essential needs of the
young person. In short, they’re getting the care they deserve.

21 Senate Floor Debate on SB 5599 (Mar. 1, 2023) (statement of Sen. Marko Liias, Sponsor, at
22 1:24:48–1:26:00) (emphasis added), available at <https://tinyurl.com/75jaep4t>.

23 62. In sum, SB 5599 allows the Department to stand in the place of parents and
24 authorize potentially life-altering (and even sterilizing) “gender-affirming” treatment and mental
25 therapy services for minors when they show up at a shelter or host home seeking or claiming to
26 have received protected health services. And SB 5599 allows the Department to do that even in the
27 face of disagreement or opposition from the parents.

1 **F. Timing of Child’s Return.**

2 63. Finally, SB 5599 significantly delays the return of a child back to their parents. That
3 is not only because parents will not know their child’s location so they can pick the child up, but
4 also because nothing in these statutory changes requires the Department to return the child, and
5 certainly not on any specific timeline. All that Paragraph 3(b)(ii) does is require the Department to
6 “[o]ffer services designed to resolve the conflict and accomplish reunification of the family.” But,
7 until that conflict is resolved—to whose satisfaction the statute does not say, but likely, to the
8 Department’s—reunification will not be required, meaning the Department will be under no
9 mandate to return the child.

10 64. Here again, the legislative history supports this reading of the statutory text.
11 Sponsor Sen. Liias said the law is for “those cases where that reunification process would separate
12 that vulnerable young person from the health care that they’re entitled to When a family is
13 standing between their young person and essential health care services there, and we need to focus
14 on the essential needs of the young person. In short, they’re getting the care they deserve. And
15 then focus on the important reunification process.” Senate Floor Debate on SB 5599 (Mar. 1, 2023)
16 (statement of Sen. Marko Liias, Sponsor, at 1:24:48–1:26:00). In other words, when the
17 Department can provide the services it thinks the child needs without parental consent, it will
18 attempt reunification at some point following those services. But the statute is silent about what
19 triggers reunification and when that would occur. And that silence creates a serious additional risk
20 that parental rights will be impaired.

21 65. Here again, the legislative history indicates that is exactly what the proponents of
22 SB 559 intended. During the legislative debates, proponents of the bill frequently framed
23 recalcitrant parents as the problem SB 5599 was designed to solve. On the Senate floor, for
24 example, Sponsor Sen. Marko Liias referred to the “opposition and hostility from their family”
25 children seeking these services would face and how “a family is standing between their young
26 person and essential health care services.” Senate Floor Debate on SB 5599 (Mar. 1, 2023)
27 (statement of Sen. Marko Liias, Sponsor, at 1:24:48–1:26:00); *see also* Taija Perry Cook & Joseph

1 O’Sullivan, WA Transgender Youth Bill Targeted in National Culture War, Crosscut (May 1,
2 2023), <https://tinyurl.com/mva94s> (quoting Sen. Lias as stating that “family members are
3 actively contributing to the unsafe circumstances that led them to [the shelter]”). Never mind that
4 some of these services have potentially life-altering, negative consequences for the child—
5 including, in some cases, sterilization.

6 66. On the floor of the Washington State House, Representative Jamila Taylor likewise
7 described the purpose of the bill as saving kids from their parents:

8 “I just want to remind you, Mr. Speaker, that we’re talking about children who are not
9 in this room hearing really encouraging language from their parents. It’s the
10 combination, the tone, the tenor, the threats, the isolation, the words that are constantly
11 told you cannot be uniquely you. You cannot be something other than what I desire for
12 you to be. And if you do not follow my rules, you cannot be here. If you want to follow
13 my rules, I’m not even gonna give you the safety, the comfort that you so desire when
14 you want to be uniquely you. Mr. Speaker, the microaggressions, the language a
15 parent—I really wish more parents had the skills that the parents were in this room
16 talking about how they would want to affirm their children, but say no. I wish more
17 parents had that. But I see a young person come to me on a regular basis saying I can’t
18 go home. Home is not safe. . . . I tell you there are some unhealthy family dynamics out
19 there and that child, that child wants to go home, wants to see the love from their
20 parents. They need some way to communicate better with their parent. Their parent
21 needs another way to speak to this child, to get them through the toughest parts part of
22 their life. We must step in. We must provide a place for this child.”

23 House Floor Debate on SB 5599 (Apr. 12, 2023) (statement of Rep. Jamila Taylor, Representative,
24 at 1:42:32–1:44:55), available at <https://tinyurl.com/4wdbhape>.

25 67. Senator Yasmin Trudeau similarly declared:

26 “And what ends up driving, you know, that the driving force often, especially for, for
27 our trans youth is the lack of acceptance. And we know the statistics when it comes to
28 suicide, when it comes to, you know, homelessness, when it comes to other issues that
29 disproportionately impact trans youth. It is a result of rejection by their family, by the
30 lack of love and support that’s shown. And so I think that we all have, we would love to
31 know that every family is a family that supports their children. But Mr. President, that
32 just isn’t the case So I just say, yes, for those of us that, that have the means and
33 the resources and the ability to love: wonderful. Many families don’t. And for the kids
34 that come from those families, they deserve the support and love as well as support this
35 bill.”

36 Senate Floor Debate on SB 5599 (Mar. 1, 2023) (statement of Sen. Yasmin Trudeau, at 1:55:00–
37 1:57:00).

1 68. Of course, nothing in the statute requires any finding that the parents kicked the
2 child out of the home or in any other way neglected or abused their child to trigger the various
3 constitutional infringements to parents SB 5599 authorizes. In the eyes of these legislators, the
4 parents’ “sin” need be nothing more than the parents’ desire to allow their child to mature before
5 making permanent life-altering decisions about whether the child will ever be capable of becoming
6 a biological parent.

7 69. In sum, because of SB 5599, where there is no indication of past or future abuse or
8 neglect, parents are treated differently under the law depending on whether their minor children,
9 when showing up to a shelter, are seeking or receiving “gender-affirming” treatment. Under those
10 two circumstances—but only those two circumstances—the parents of that minor are treated
11 differently than other parents.

12 70. Under those two circumstances—but only those two circumstances—there is no
13 process or procedure for determining if parents should be notified of the location and well-being of
14 their children or instead denied control over the treatment of their child and denied having their
15 child at home for a longer, indefinite period. The absence of such a process or procedure is a serious
16 deprivation of a parent’s constitutional rights.

17 **G. Religious Beliefs of Some Plaintiffs.**

18 71. SB 5599 also interferes with the ability of some parents to comply with their
19 religious beliefs on matters of “gender-affirming” care.

20 72. For example, the Roman Catholic Church teaches that a human body is
21 intentionally and purposefully created by God as either male or female.

22 73. As embraced by Parents 3A and 3B, the Roman Catholic Church teaches:

23 Everyone, man and woman, should acknowledge and accept his sexual identity.
24 Physical, moral, and spiritual difference and complementarity are oriented toward the
25 goods of marriage and the flourishing of family life. The harmony of the couple and of
26 society depends in part on the way in which the complementarity, needs, and mutual
27 support between the sexes are lived out.

26 *Catechism of the Catholic Church* para. 2333, available at <https://tinyurl.com/rwsdv27e> (last visited
27 Aug. 16, 2023).

1 74. Those Plaintiffs additionally adhere to the doctrine of the Roman Catholic Church,
2 when it teaches, “By creating the human being man and woman, God gives personal dignity to the
3 one and the other. Each of them, man and woman, should acknowledge and accept his sexual
4 identity.” *Catechism of the Catholic Church* para. 2393.

5 75. As to the religious faith of Parents 4A and 4B, whose beliefs on these issues are
6 informed by the Bible as they understand it, they know the Bible to teach that man and woman are
7 created by God as male or female, respectively, *see* Genesis 1:27 (“So God created man in his own
8 image, in the image of God he created him; male and female he created them.”), that sexual activity
9 is to be confined to a marriage relationship of a person of the opposite biological sex, *see* Leviticus
10 18:22 (“You shall not lie with a male as with a woman; it is an abomination”), and that biological
11 males and females are not to embrace gender expressions in their manner of dress that reflects
12 society’s expression of the opposite biological sex, *see* 1 Corinthians 11:14–15 (discussing manners
13 of dress associated with men and distinct from those associated with women).

14 76. Parents 3A and 3B believe that their faith places upon them a religious obligation to
15 teach these religious beliefs to their children and guide them in living them. As the Catechism
16 teaches, “Through the grace of the sacrament of marriage, parents receive the responsibility
17 privilege of evangelizing their children. Parents should initiate their children at an early age not the
18 mysteries of the faith of which they are the ‘first heralds’ of their children. They should associate
19 them from their tenderest years with the life of the Church” *Catechism of the Catholic Church*
20 para. 2225, available at <https://tinyurl.com/5t328kwa> (last visited Aug. 16, 2023).

21 77. Parents 4A and 4B likewise hold this belief, as they believe God commands them to
22 do so in the Bible. *See, e.g.*, Deuteronomy 6:6–7 (“And these words that I command you today shall
23 be on your heart. You shall teach them diligently to your children, and shall talk of them when you
24 sit in your house, and when you walk by the way, and when you lie down, and when you rise.”);
25 Ephesians 6:4 (“Fathers, do not provoke your children to anger, but bring them up in the discipline
26 and instruction of the Lord.”); 2 Timothy 3:16–17 (“All Scripture is breathed out by God and
27

1 profitable for teaching, for reproof, for correction, and for training in righteousness, that the man
2 of God may be complete, equipped for every good work.”).

3 **H. SB5599 Interferes with First and Fourteenth Amendment Rights.**

4 78. Notwithstanding parents’ constitutional rights to direct the upbringing of their
5 children, with SB 5599, children of any age under seeking “gender-affirming” treatment can do so
6 through the Department if that child is in a homeless shelter or host home.

7 79. Guidelines from the World Professional Association of Transgender Health
8 (WPATH) recommends no age restrictions for transition therapy. Children as young as 8 have
9 received puberty blockers and opposite-sex hormones, and girls as young as 12 have received
10 mastectomies.

11 80. Moreover, as the bill’s proponents made clear in the legislative history, SB 5599
12 penalizes parents of transgender children who both use the pronouns that correspond to the
13 children’s biological sex and refuse to use those children’s preferred pronouns or name. By
14 penalizing parents’ refusal to engage in “gendering-affirming” speech and speaking contrary to it,
15 SB 5599 equates such speech and refusal to speak with child abuse.

16 81. Governor Inslee appears to agree. He has declared regarding SB 5599, “With this
17 bill, Washington leads the way . . . to support these youth as they access gender-affirming
18 treatment.” *Trans Minors Protected from Parents under Washington Law*, Associated Press (May
19 9, 2023), <https://tinyurl.com/ynx7nm95>.

20 82. In the context of asserting First Amendment and related rights in a pre-enforcement
21 challenge, so long as the necessary actors have “laid the groundwork,” standing exists even though
22 those actors “ha[ve] yet to carry out [their] plans.” *303 Creative LLC v. Elenis*, 143 S. Ct. 2298,
23 2308 (2023). It is enough that they worry that the State of Washington “will force [them] to
24 express views with which [they] disagrees.” *Id.*; *see also Laird v. Tatum*, 408 U.S. 1, 14 (1972)
25 (noting that pre-enforcement standing is satisfied in the free speech context by claiming “a threat
26 of specific future harm”).

27

1 83. Furthermore, the Ninth Circuit has determined that a scenario where the
2 “government has not disavowed enforcement of the [challenged] Provision is evidence of an intent
3 to enforce it.” *Arizona v. Yellen*, 34 F.4th 841, 850 (9th Cir. 2022).

4 84. Additionally, given the vagueness of what parents need to do to convince the
5 Department to return their child and “accomplish a reunification of the family,” it is highly likely
6 the Department will require parents to affirm through their speech their child’s choices as to
7 gender identity, thus compelling the parents’ speech.

8 85. Likewise, given how SB 5599 now incentivizes youth to run away, knowing how SB
9 5599 will allow the State to keep their child from them will result in chilling the parents’ speech.
10 For example, parents may cease using the child’s given name and pronouns that correspond with
11 the child’s biological sex out of fear caused by SB 5599.

12 86. Plaintiffs must show “a credible threat” exists that the State would enforce SB 5599
13 against them. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 159 (2014).

14 87. Here, this credible threat exists because of Washington’s “record of past
15 enforcement actions under” similar statutes. *See 303 Creative*, 143 S. Ct. at 2309. Here, as in
16 multiple U.S. Supreme Court cases, unless Washington is ready to publicly “disavow future
17 enforcement” of such laws, *id.* at 2310 (internal quotation marks omitted), Plaintiffs have standing
18 to challenge them.

19 88. Attorney General Ferguson has amply demonstrated his enthusiasm for
20 aggressively enforcing laws pertaining to being transgender.

21 89. For example, he filed an amicus brief supporting trans bathrooms in public schools.
22 *See* AG Ferguson in Gavin Grimm Case: Uphold Transgender Rights, Wash. State Off. of the Att’y
23 Gen. (May 16, 2017), <https://tinyurl.com/2s4dmh6a>. He also participated in an organized effort
24 to convince Target to reestablish its LGBT children’s clothing section during Pride Month. *See*
25 Attorney General Bob Ferguson (@AGOWA), Twitter (June 20, 2023, 1:37 PM),
26 <https://tinyurl.com/24jtk554>.

1 90. Attorney General Ferguson also aggressively pursues this transgender agenda even
2 when it infringes upon religious liberty. *See, e.g.*, Nina Shapiro, Seattle Pacific University Sues WA
3 Attorney General, Saying Probe Into LGBTQ+ Policies Violates Religious Freedom, Seattle Times
4 (July 30, 2022), <https://tinyurl.com/nhe9jp3b>.

5 91. Additionally, the immediate likelihood of harm from SB 5599 is present because
6 several of the Plaintiffs here have dealt with potential runaway children.

7 92. Parent 2A and Parent 2B have two transgender children who have credibly
8 threatened to run away and explore places they could go. Both children are biological females. This
9 included one instance where the older, driving-age child was ready to provide transportation to
10 take the younger child (too young to drive) to an environment that would provide gender
11 affirmation.

12 93. A primary reason the children of Parent 2A and Parent 2B threatened to run away
13 and explored doing so is because the parents declined to refer to the children by their preferred
14 names and pronouns, and instead referred to them by their birth names and biological pronouns.

15 94. Parent 3A and Parent 3B also dealt with a potential runaway situation. One of their
16 transgender children was encouraged by some adults to run away from their home and live in a
17 place where the adults in charge would verbalize gender affirmation by using opposite-sex names
18 and pronouns.

19 95. Two such adults offered their home as such a place. Parents 3A and 3B believe that
20 a similar episode recently occurred with another of their transgender children, in which the parents
21 of a school friend surreptitiously arranged for their child to spend time in the home, during which
22 time the parents of the school friend would speak to the child of Parents 3A and 3B with the child's
23 preferred transgender name and preferred pronouns.

24 96. And even for those Plaintiffs whose children have not threatened to run away, SB
25 5599 changes the legal landscape such that children who may not have considered running away
26 before now have an incentive to do so under the law because they can obtain health care services
27 they desire without parental permission.

1 97. For all these reasons, SB 5599 creates a significant risk that if one of Plaintiffs’
 2 children wishes to transition to a gender different from their biological sex—and that is a
 3 substantial risk for each of the children described above—one of the Defendants or their agents
 4 would facilitate the child’s obtaining such a transition, contrary to the parents’ desires for their
 5 children, or contrary to their religious beliefs, or both. Such an action by an agent of the State of
 6 Washington would violate the affected Plaintiffs’ constitutional right to direct their child’s
 7 upbringing, and their First Amendment right to teach and guide their child’s activities in a manner
 8 consistent with the parents’ faith commitments. This significant risk of a constitutional violation
 9 is the proximate result of SB5599.

10 V. CAUSES OF ACTION.

11 A. **Count I: Federal Due Process Clause—Parents’ Right to Direct Upbringing of** 12 **Children; U.S. Const. Amend. XIV, § 1, Cl. 3.**

13 98. Plaintiffs hereby incorporate the allegations made in each preceding paragraph of
 14 this Complaint as if fully set forth herein.

15 99. The Supreme Court has held that the Due Process Clause of the Fourteenth
 16 Amendment, U.S. Const. amend. XIV, § 1, includes certain substantive rights. Fundamental rights
 17 under the Constitution of the United States are “deeply rooted in this Nation’s history and
 18 tradition,” such that the right is “fundamental to our scheme of ordered liberty.” *McDonald v.*
 19 *City of Chi.*, 561 U.S. 742, 767 (2010) (internal quotation marks and emphasis omitted).

20 100. Among these is parents’ fundamental right to direct their children’s upbringing.
 21 *Pierce v. Soc’y of Sisters*, 268 U.S. 510, 534–35 (1925); *see also Troxel v. Granville*, 530 U.S. 57, 66
 22 (2000) (plurality opinion) (discussing a long line of cases where the Supreme Court has
 23 “recognized the fundamental right of parents to make decisions concerning the care, custody, and
 24 control of their children”).

25 101. Because the “right to rear children without undue governmental interference is a
 26 fundamental component of due process,” laws that burden that right are subject to strict scrutiny,
 27 whereby the Fourteenth Amendment “forbids the government to infringe certain fundamental

1 liberty interests at all, no matter what process is provided, unless the infringement is narrowly
2 tailored to serve a compelling government interest.” *Nunez v. City of San Diego*, 114 F.3d 935, 951-
3 52 (9th Cir. 1997) (emphasis omitted) (internal quotation marks omitted).

4 102. A parent dealing with a child who seeks “gender-affirming” treatment is dealing
5 with an archetypal issue of raising and the upbringing of that child.

6 103. A parent has the right to make medical decisions for his or her child. SB 5599
7 violates that right by giving the Department authority to make referrals, without notice to or
8 consultation with parents, for “appropriate behavioral health services” for a child seeking gender-
9 affirming care.

10 104. SB 5599 thus interferes with the fundamental right of parents to direct the
11 upbringing of children dealing with those two issues, including children of several Plaintiffs here,
12 by authorizing the child to engage in “treatment” not authorized by the parent, by authorizing the
13 State to provide such treatment, and by preventing parents from raising their children in the
14 manner they think best.

15 105. Plaintiffs have no adequate remedy at law.

16 106. The actions Defendants are now required to take under SB 5599 violate federal law,
17 specifically by violating Plaintiffs’ right to direct the upbringing of their children. Absent injunctive
18 relief, Defendants’ actions continue to threaten to harm Plaintiffs by impairing their enjoyment of
19 this right.

20 **B. Count II: Federal Due Process Clause—Parents’ Right to Custody of Children; U.S.**
21 **Const. Amend. XIV, § 1, Cl. 3.**

22 107. Plaintiffs hereby incorporate the allegations made in each preceding paragraph of
23 this Complaint as if fully set forth herein.

24 108. The Supreme Court has held that the Due Process Clause secures the related
25 substantive right of parents to have custody of their children. *Meyer v. Nebraska*, 262 U.S. 390, 399
26 (1923); *Santosky v. Kramer*, 455 U.S. 745, 753 (1982) (recognizing “[t]he fundamental liberty
27 interest of natural parents in the care, custody, and management of their child”). Here, this is

1 inextricably intertwined with the right of a family to live together. *Moore v. City of E. Cleveland*, 431
2 U.S. 494, 498–500 (1977) (plurality opinion); *Halet v. Wend Inv. Co.*, 672 F.2d 1305, 1311 (9th Cir.
3 1982).

4 109. By denying to parents of children who seek the aforementioned health care services
5 information about the location of their children, as well as the custody and control of their children,
6 SB 5599 interferes with the fundamental right of parents to have custody of their children and keep
7 the family unit together as a household.

8 110. Plaintiffs have no adequate remedy at law.

9 111. The actions Defendants are now required to take violate federal law, specifically by
10 violating Plaintiffs’ right to custody of their children and their right to keep their family together.
11 Absent injunctive relief, Defendants’ actions continue to threaten to harm Plaintiffs by impairing
12 their enjoyment of this right.

13 **C. Count III: Federal Free Exercise Clause; U.S. Const. Amend. I, Cl. 2.**

14 112. Plaintiffs hereby incorporate the allegations made in each preceding paragraph of
15 this Complaint as if fully set forth herein.

16 113. The Free Exercise Clause of the First Amendment to the United States
17 Constitution mandates that no instrumentality of any government in the United States shall enact
18 any “law ... prohibiting the free exercise” of religion. U.S. Const. amend. I, cl. 2. That right applies
19 to the States through the Fourteenth Amendment. *See Carson v. Makin*, 142 S. Ct. 1987, 1996
20 (2022).

21 114. The Free Exercise Clause protects the right of individuals “to live out their faiths
22 in daily life through the performance of (or abstention from) physical acts.” *Kennedy v. Bremerton*
23 *Sch. Dist.*, 142 S. Ct. 2407, 2421 (2022) (internal quotation marks omitted).

24 115. Also, “[t]he Free Exercise Clause of the First Amendment protects against indirect
25 coercion or penalties on the free exercise of religion, not just outright prohibitions.” *Carson*, 142
26 S. Ct. at 1996 (internal quotation marks omitted).

27

1 116. The free exercise of religion is a fundamental right, and a law goes to the core of
2 that protected right when it involves raising children in accordance with the parents' religious faith.
3 *Wisconsin v. Yoder*, 406 U.S. 205, 214 (1972).

4 117. A parent cannot raise a child in accordance with his or her faith if the parent cannot
5 communicate with, know the location of, or control the custody and care of their child, abilities
6 that are denied under SB 5599 to parents whose children show up at a shelter and seek or are
7 receiving the protected health care services noted above.

8 118. A parent has the right to make medical decisions for his or her child consistent with
9 the parent's religious faith. SB 5599 violates that right by giving the Department authority to make
10 referrals for "appropriate behavioral health services" for a child seeking "gender-affirming"
11 treatment.

12 119. Furthermore, SB 5599 provides that the Department shall offer "services designed
13 to resolve the conflict and accomplish a reunification of the family." Wash. Rev. Code §
14 13.32A.082(3)(b)(ii). To the extent that doing so would violate the religious beliefs of those
15 parents, as it could well do with Parents 3A, 3B, 4A, and 4B, it penalizes the parents for living in
16 accordance with their faith.

17 120. Under free exercise doctrine, even if a law is neutral and generally applicable to
18 religiously motivated conduct, strict scrutiny is still warranted when the Free Exercise Clause and
19 "other constitutional protections" are involved, such as parental rights. *Emp. Div., Dep't of Hum.*
20 *Res. of Or. v. Smith*, 494 U.S. 872, 881 (1990) (citing *Yoder*, 406 U.S. 205).

21 121. Even if SB 5599 would typically be considered a neutral and generally applicable
22 law, the Supreme Court specifically held in *Yoder* that laws that interfere with raising children
23 according to the parents' religious faith are subject to strict scrutiny, and *Yoder* remains good law.
24 Thus, strict scrutiny applies here under *Yoder* and *Smith's* recognition that both free exercise and
25 parental rights are implicated.

26 122. Strict scrutiny is a high bar. As the U.S. Supreme Court has emphasized, a law "can
27 survive strict scrutiny only if it advances 'interests of the highest order' and is narrowly tailored to

1 achieve those interests.” *Fulton v. City of Phila.*, 141 S. Ct. 1868, 1881 (2021) (quoting *Church of the*
2 *Lukumi Babalu Aye, Inc., v. City of Hialeah*, 508 U.S. 520, 546 (1993)). “Put another way, so long
3 as the government can achieve its interests in a manner that does not burden religion, it must do
4 so.” *Id.*

5 123. Defendants cannot satisfy strict scrutiny here because, even if they can satisfy the
6 compelling-interest prong of the test, the law is not narrowly tailored because it is overinclusive,
7 sweeping in situations where there is no abuse or neglect, as well as situations where the child may
8 have shown up at a shelter having nothing to do with “gender-affirming” treatment. *See Lukumi*,
9 508 U.S. at 538 (finding laws violated the Free Exercise Clause because “they proscribe more
10 religious conduct than is necessary to achieve their stated ends”).

11 124. Plaintiffs have no adequate remedy at law.

12 125. The actions Defendants are now required to take violate federal law, specifically by
13 violating Plaintiffs’ right to raise their children according to the parents’ faith. Absent injunctive
14 relief, Defendants’ actions continue to threaten to harm Plaintiffs.

15 **D. Count IV: Federal Free Speech Clause; U.S. Const. Amend. I, Cl. 3.**

16 126. Plaintiffs hereby incorporate the allegations made in each preceding paragraph of
17 this Complaint as if fully set forth herein.

18 127. The Free Speech Clause of the First Amendment to the United States Constitution
19 mandates that no instrumentality of any government in the United States shall enact any “law ...
20 abridging the freedom of speech.” U.S. Const. amend. I, cl. 3. That right applies to the States
21 through the Fourteenth Amendment. *Prete v. Bradbury*, 438 F.3d 949, 961 (9th Cir. 2006).

22 128. Yet another reason for First Amendment protections is “because the freedom of
23 thought and speech is indispensable to the discovery and spread of political truth. By allowing all
24 views to flourish, the framers understood, we may test and improve our own thinking both as
25 individuals and as a Nation.” *303 Creative*, 143 S. Ct. at 2311 (internal quotation marks omitted).
26 “Gender-affirming” treatment is one of the most controversial political issues in American life,
27 meriting the apex of First Amendment protection.

1 129. SB 5599 has the effect of simultaneously compelling and chilling speech in
2 accordance with the views of the majority of the state legislature and the Governor.

3 130. The legislative history of SB 5599 shows the statute's supporters equate a parent
4 who does not verbally affirm a child's gender identity by using the child's preferred names and
5 pronouns with an abusive environment, arguing that such abuse is what makes the statute's
6 provisions necessary. By doing so, SB 5599 chills protected speech, as parents with a transgender
7 child may fear to use certain speech (birth name, preferred pronouns) or say certain things ("You
8 are still the same gender as when you were born") that could lead to the child seeking to trigger SB
9 5599. And chilling free speech can violate the Constitution. *See Bd. of Cnty. Comm'rs v. Umbehr*,
10 518 U.S. 668, 674 (1996) ("[C]onstitutional violations may arise from the deterrent, or 'chilling,'
11 effect of governmental efforts that fall short of a direct prohibition against the exercise of First
12 Amendment rights . . .") (internal quotation marks omitted).

13 131. Likewise, the vagueness associated with what parents must do to qualify for
14 reunification with their child violates the First Amendment by chilling speech. *See F.C.C. v. Fox*
15 *Television Stations, Inc.*, 567 U.S. 239, 253-54 (2012) ("When speech is involved, rigorous
16 adherence to [void for vagueness doctrine] requirements is necessary to ensure that ambiguity does
17 not chill protected speech."); *see also Nat'l Endowment for the Arts v. Finley*, 524 U.S. 569, 588
18 (1998).

19 132. When parents speak on issues of "gender-affirming" treatment with their children,
20 the right to free speech converges with the fundamental right to raise children.

21 133. For Plaintiffs 3A, 3B, 4A, and 4B, this aspect of SB 5599 infringes upon a third
22 fundamental right. Speaking words based on faith is protected by both the Free Speech Clause and
23 the Free Exercise Clause. An example is prayer, regarding which the Supreme Court held that
24 "[b]oth the Free Exercise and Free Speech Clauses of the First Amendment protect [those]
25 expressions" *Kennedy*, 142 S. Ct. at 2416. Given that the right to direct the upbringing of
26 children is implicated as well, when the parent speaks on gender identity from the vantage point of
27 religious faith, SB 5599 sits on a nexus of at least three violations of fundamental rights.

1 134. As to compelled speech, SB 5599 provides that the Department shall offer “services
2 designed to resolve the conflict and accomplish a reunification of the family.” To the extent that
3 such “reunification” would be contingent on the parents’ using a child’s preferred name and
4 preferred pronouns, the Department would be compelling speech by coercing a parent to say words
5 they do not believe.

6 135. For parents such as Plaintiffs here, even when LGBT issues and children are
7 concerned, the Supreme Court has held that the First Amendment does not allow the State to
8 “interfere with [their] choice not to propound a point of view contrary to [their] beliefs.” *Boy*
9 *Scouts of Am. v. Dale*, 530 U.S. 640, 654 (2000). “As these cases illustrate, the First Amendment
10 protects an individual’s right to speak his mind regardless of whether the government considers
11 his speech sensible and well intentioned or deeply misguided, and likely to cause anguish or
12 incalculable grief.” *303 Creative*, 143 S. Ct. at 2312 (internal quotation marks omitted).

13 136. These protections are heightened, if anything, where the State commands that a
14 person must give utterance to particular views because, as a general matter, “the government may
15 not compel a person to speak its own preferred messages.” *Id.*

16 137. SB 5599 thus abridges free speech in three regards. First, it penalizes parents for
17 expressing their views on gender identity.

18 138. Second, this is also compelled speech. SB 5599 penalizes parents for not expressing
19 support for a child’s gender identity, including not using “preferred pronouns” when speaking to
20 or referring to a transgender child, equating such speech with child abuse. Compelled speech
21 violates the Free Speech Clause. *See Janus v. Am. Fed’n of State, Cnty., & Mun. Emps.*, 138 S. Ct.
22 2448, 2463 (2018) (“We have held time and again that freedom of speech ‘includes both the right
23 to speak freely and the right to refrain from speaking at all.’”) (quoting *Wooley v. Maynard*, 430
24 U.S. 705, 714 (1977)); *see also W. Va. Bd. of Ed. v. Barnette*, 319 U.S. 624, 642 (1943) (“If there is
25 any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe
26 what shall be orthodox in politics, nationalism, religion, or other matters of opinion or *force citizens*
27 *to confess by word or act their faith therein.*”) (emphasis added).

1 139. Third, SB 5599 chills parents' speech.

2 140. Plaintiffs have no adequate remedy at law.

3 141. The actions Defendants are now effectively required and allowed to take violate the
4 U.S. Constitution, specifically by posing a substantial threat to Plaintiffs' rights to freely express
5 their views on these issues and to refrain from speech that contradicts the State's preferred views.
6 Absent injunctive relief, Defendants' actions continue to threaten to harm Plaintiffs.

7 **E. Count V: Federal Equal Protection Clause; U.S. Const. Amend. XIV, § 1, Cl. 4.**

8 142. Plaintiffs hereby incorporate the allegations made in each preceding paragraph of
9 this Complaint as if fully set forth herein.

10 143. The Equal Protection Clause of the Fourteenth Amendment, U.S. Const. amend.
11 XIV, § 1, cl. 4, guarantees Plaintiffs equal protection of the laws, "which is essentially a direction
12 that all persons similarly situated should be treated alike." *City of Cleburne v. Cleburne Living Ctr.*,
13 473 U.S. 432, 439 (1985).

14 144. Strict scrutiny applies "when the classification impermissibly interferes with the
15 exercise of a fundamental right." *Halet*, 672 F.2d at 1310.

16 145. Before SB 5599, Wash. Rev. Code § 13.32A.082(3) generally allowed every parent
17 to be notified of the location and condition of a child who is taken in by a homeless shelter. The
18 previous version of Subsection 3 allowed that information to be withheld only if there is a
19 compelling reason to do so, which includes circumstances indicating traditional abuse or neglect
20 and requiring an individualized inquiry.

21 146. However, SB 5599 amends Subsection 3 to say that if a child claims to be seeking
22 "gender-affirming" treatment—and only for that reason—then "compelling reasons" under
23 Washington law are per se established.

24 147. SB 5599 thereby treats parents of children seeking or receiving "gender-affirming"
25 treatment categorically differently from other parents, dividing parents into two classes drawn on
26 lines that implicate fundamental rights to the upbringing and custody of their children, and for
27

1 some parents, the fundamental free exercise right to raise their children according to the parents’
2 faith.

3 148. This unequal treatment, therefore, triggers strict scrutiny.

4 149. Indeed, singling out only parents of children claiming to be undergoing or seeking
5 “gender-affirming” treatment is irrational. That is because, among other things, the treatment
6 their children are seeking or receiving unconnected to parental behavior is irrational, and, as such,
7 would fail any level of scrutiny under the Equal Protection Clause, including the minimal standard
8 of rational-basis review.

9 150. A majority of the legislature has legislatively punished parents who are not fully
10 onboard with so-called “gender-affirming treatment.” Singling them out for disparate treatment
11 without evidence of abuse or neglect thus violates even rational basis review. *See U.S. Dep’t of*
12 *Agric. v. Moreno*, 413 U.S. 528, 534 (1973) (“For if the constitutional conception of ‘equal
13 protection of the laws’ means anything, it must at the very least mean that a bare congressional
14 desire to harm a politically unpopular group cannot constitute a legitimate governmental
15 interest.”).

16 151. Plaintiffs have no adequate remedy at law.

17 152. The actions Defendants are now required to take violate the U.S. Constitution,
18 specifically by posing a substantial threat to Plaintiffs’ right to equal protection on a matter
19 implicating those parents’ fundamental rights. Absent injunctive relief, Defendants’ actions
20 continue to threaten to harm Plaintiffs.

21 **F. Count VI: Federal Due Process Clause—Deprivation of Parental and Religious**
22 **Rights Without Procedural Due Process; U.S. Const. Amend. XIV, § 1, Cl. 3.**

23 153. Plaintiffs hereby incorporate the allegations made in each preceding paragraph of
24 this Complaint as if fully set forth herein.

25 154. The Due Process Clause of the Fourteenth Amendment guarantees that no State
26 shall “deprive any person of life, liberty, or property without due process of law.” U.S. Const.
27 amend. XIV, § 1, cl. 3.

1 155. Plaintiffs' fundamental rights are implicated here.

2 156. When due process is implicated, "the question remains what process is due." *FDIC*
3 *v. Mallen*, 486 U.S. 230, 240 (1988) (internal quotation marks omitted). "The fundamental
4 requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful
5 manner." *Matthews v. Eldridge*, 424 U.S. 319, 333 (1976) (internal quotation marks omitted).

6 157. Generally, the Due Process Clause ensures a fair hearing by an unbiased decision
7 maker. *See, e.g., Morrissey v. Brewer*, 408 U.S. 471, 489 (1972). Here, however, parents of children
8 who claim to be receiving or seeking certain treatment are immediately deprived of their rights to
9 direct the upbringing of their children or to raise children in the parents' faith tradition with no
10 process whatsoever.

11 158. Even for accusations of domestic violence or severe substance abuse, Subsection 3
12 provides due process by allowing for an individualized assessment to see if there is a compelling
13 reason to withhold information about the child's whereabouts from the parents. But for parents of
14 children seeking "gender-affirming treatment," there is not even a minimal procedure to provide
15 due process. This lack of even minimal process is a violation of due process.

16 159. Plaintiffs have no adequate remedy at law.

17 160. The actions Defendants are now required or allowed to take violate the U.S.
18 Constitution, specifically by posing a substantial threat to Plaintiffs' right not to be deprived of any
19 liberty interest without due process of law. Absent injunctive relief, Defendants' actions continue
20 to threaten to harm Plaintiffs.

21 **G. Count VII: Federal Due Process Clause—Void for Vagueness; U.S. Const. Amend.**
22 **XIV, § 1, Cl. 3.**

23 161. Due process requires "that laws which regulate persons or entities must give fair
24 notice of conduct that is forbidden or required." *Fox Television*, 567 U.S. at 253. A statute falls
25 short of this standard when its terms are "so vague that men of common intelligence must
26 necessarily guess at its meaning and differ as to its application." *Id.* (internal quotation marks
27

1 omitted). All Washington parents “are entitled to be informed as to what the State commands or
2 forbids.” *Id.* (internal quotation marks omitted).

3 162. It is not entirely clear whether the provision in SB 5599 regarding reconciliation and
4 reunification services allows the Department or a provider to condition such reconciliation or
5 reunification on the parents agreeing to call a transgender child by the child’s preferred name or
6 pronouns, or agree to allow the child to receive treatment that the child needs parental permission
7 for but that the parents oppose.

8 163. To the extent SB 5599 is not clear in that regard, it is void for vagueness.

9 164. Plaintiffs have no adequate remedy at law.

10 165. The actions Defendants are now required to take violate federal law, specifically by
11 posing a substantial threat to Plaintiffs’ right not to be deprived of any liberty interest without due
12 process of law. Absent injunctive relief, Defendants’ actions continue to threaten to harm
13 Plaintiffs.

14 **H. Count VIII: Washington Due Process Clause—Parents’ Right to Rear their Children**
15 **Without State Interference; Wash. Const. Art. I, § 3.**

16 166. Plaintiffs hereby incorporate the allegations made in each preceding paragraph of
17 this Complaint as if fully set forth herein.

18 167. Under the Washington Constitution, “No person shall be deprived of life, liberty,
19 or property, without due process of law.” Wash. Const. Art. I, § 3.

20 168. In the context of parental rights, the Washington Supreme Court has observed that
21 “[t]he family entity is the core element upon which modern civilization is founded.” *In re Custody*
22 *of Smith*, 969 P.2d 21, 28 (Wash. 1998), *aff’d sub nom. Troxel v. Granville*, 530 U.S. 57. And
23 “parents[] . . . primarily have the constitutional right to the custody and control of such minor
24 children.” *In re Brown*, 105 P.3d 991, 994 (Wash. 2005) (internal quotation marks omitted); *see also*
25 *In re Custody of B.M.H.*, 315 P.3d 470, 475 (Wash. 2013) (“[I]n . . . child custody disputes we afford
26 considerable deference to parents . . .”).

1 169. Thus, because “[a] parent’s constitutionally protected right to rear his or her
2 children without state interference[] . . . [is] as a fundamental ‘liberty’ interest,” “state
3 interference is justified only if the state can show that it has a compelling interest and such
4 interference is narrowly drawn to meet only the compelling state interest involved.” *In re Custody*
5 *of Smith*, 969 P.2d at 28; *see also In re Custody of Shields*, 136 P.3d 117, 126 (Wash. 2006) (“[S]tate
6 interference with a fit parent’s fundamental right to autonomy in child-rearing decisions is subject
7 to strict scrutiny.”).

8 170. The Defendants cannot satisfy strict scrutiny here. First, there cannot be a
9 compelling government interest to deprive parents of their constitutional parental rights just
10 because their child is receiving or seeking to receive “gender-affirming” care and shows up at a
11 homeless shelter or host home. There is no connection to the parents’ behavior, and the State
12 cannot have a compelling interest in displacing a parent unrelated to the parent’s conduct or
13 condition.

14 171. Second, for the same reasons, SB 5599 is not narrowly tailored. It is overinclusive,
15 sweeping in parents who are not neglectful or abusive into its net. If the law is concerned about
16 problematic parents, then the law could be more narrowly tailored, as evidenced by the previous
17 iteration where “compelling reasons” was defined to capture abusive or neglectful parents.

18 172. SB 5599 thus violates Plaintiffs’ parental rights under the Washington Constitution.

19 173. Plaintiffs have no adequate remedy at law.

20 174. The actions Defendants are now required to take violate state law, specifically by
21 posing a substantial threat to Plaintiffs’ right not to be deprived of any liberty interest without due
22 process of law. Absent injunctive relief, Defendants’ actions continue to threaten to harm
23 Plaintiffs.

24 **I. Count IX: Washington Special Privileges and Immunities Clause; Wash. Const. Art.**
25 **I, § 12.**

26 175. Plaintiffs hereby incorporate the allegations made in each preceding paragraph of
27 this Complaint as if fully set forth herein.

1 176. The Washington Constitution states, “No law shall be passed granting to any
2 citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon
3 the same terms shall not equally belong to all citizens, or corporations.” Wash. Const. Art. I, § 12.

4 177. The Washington Supreme Court has “construed article I, section 12 of the
5 Washington Constitution to be consistent with the equal protection clause of the Fourteenth
6 Amendment.” *Wash. Food Indus. Ass’n & Maplebear, Inc. v. City of Seattle*, 524 P.3d 181, 195 (Wash.
7 2023) (citing *Ockletree v. Franciscan Health Sys.*, 317 P.3d 1009, 1013-14 (Wash. 2014)).

8 178. However, “[t]he article I, section 12 reasonable ground test is more exacting than
9 rational basis review.” *Schroeder v. Weighall*, 316 P.3d 482, 486 (Wash. 2014). “Under the
10 reasonable ground test a court will not hypothesize facts to justify a legislative distinction.” *Id.*
11 “Rather, the court will scrutinize the legislative distinction to determine whether it in fact serves
12 the legislature’s stated goal.” *Id.*

13 179. The reasonable ground test is not satisfied here: because by lumping all parents of
14 children who show up at shelters demanding or receiving “gender-affirming” treatment into one
15 category, there is a mismatch between the legislature’s goal of helping children who are being
16 mistreated by their parents and the parents covered by the law. And the law makes no attempt to
17 sort these parents into different groups for differing treatment.

18 180. The law thus does not serve the legislature’s stated goal because it will separate
19 children from parents when there is no need. SB 5599, therefore, violates Article I, Section 12 of
20 the Washington Constitution.

21 181. Plaintiffs have no adequate remedy at law.

22 182. The actions Defendants are now required to take violate state law, specifically by
23 posing a substantial threat to Plaintiffs’ right not to be deprived of any liberty interest without due
24 process of law. Absent injunctive relief, Defendants’ actions continue to threaten to harm
25 Plaintiffs.

1 **J. Count X: Washington Free Speech Clause; Wash. Const. Art. I, § 5.**

2 183. Plaintiffs hereby incorporate the allegations made in each preceding paragraph of
3 this Complaint as if fully set forth herein.

4 184. The Washington Constitution declares, “Every person may freely speak, write and
5 publish on all subjects, being responsible for the abuse of that right.” Wash. Const. Art. I, § 5.

6 185. The clause provides that “parents have a right to determine the manner in which
7 delicate moral issues will be discussed with their young children.” *Bering v. SHARE*, 721 P.2d 918,
8 937 (Wash. 1986); *see also id.* (“The parents’ right to direct the rearing of their children clearly is
9 deserving of the State’s protection.”).

10 186. SB 5599 violates this clause of the Washington Constitution by violating parents’
11 rights to teach and discuss the “delicate moral issues” surrounding gender identity. It does so in
12 two ways.

13 187. First, it chills parental speech both before a child runs away, when the parent is
14 trying to get the child back, and after the child has been returned. SB 5599 will force parents to
15 avoid any speech that their child or the State may disagree with, such as using the child’s biological
16 pronouns and birth name, or affirming the child’s chosen gender identity.

17 188. Second, SB 5599 compels parents to engage in speech contrary to the parents’ views
18 on “delicate moral issues” that align with their child and the State’s views.

19 189. SB 5599 does all this by creating a legal environment wherein if the parent does not
20 do what the child wants, the child can just run away and get the state to provide what the child
21 desires. And once that has occurred, for the parents to convince the State to reunify the child with
22 them, the parents must confirm through their speech the State’s views on gender identity and
23 avoid saying anything to their child with which the State disagrees.

24 190. Thus, SB 5599 violates Article I, Section 5 of the Washington Constitution.

25 191. Plaintiffs have no adequate remedy at law.

26 192. The actions Defendants are now required to take violate state law, specifically by
27 posing a substantial threat to Plaintiffs’ right not to be deprived of any liberty interest without due

1 process of law. Absent injunctive relief, Defendants' actions continue to threaten to harm
2 Plaintiffs.

3 **VI. PRAYER FOR RELIEF.**

4 WHEREFORE, Plaintiffs request that the Court issue an order and judgment:

5 193. Declaring that under Count I, the threatened denial by Defendants pursuant to
6 SB5599 of Plaintiffs' right to direct the upbringing of their children violates the federal Due Process
7 Clause of the Fourteenth Amendment.

8 194. Declaring that under Count II, the threatened denial by Defendants pursuant to
9 SB5599 of Plaintiffs' right to the custody of their children, and the consequent ability to keep their
10 family together, violates the federal Due Process Clause of the Fourteenth Amendment;

11 195. Declaring that under Count III, the threatened denial by Defendants pursuant to
12 SB5599 of Plaintiffs' right to raise their children according to the parents' faith violates the federal
13 Free Exercise Clause of the First Amendment as applicable to the States through the Fourteenth
14 Amendment;

15 196. Declaring that under Count IV, the threatened denial by Defendants pursuant to
16 SB5599 of Plaintiffs' rights to express to their children and others their views regarding gender
17 identity violates the federal Free Speech Clause of the First Amendment as applicable to the States
18 through the Fourteenth Amendment;

19 197. Declaring that under Count V, the threatened denial by Defendants pursuant to
20 SB5599 of Plaintiffs' right to equal protection violates the federal Equal Protection Clause of the
21 Fourteenth Amendment;

22 198. Declaring that under Count VI, the threatened denial by Defendants pursuant to
23 SB5599 of Plaintiffs' right not to be deprived of their liberty interests in raising their children
24 violates the federal Due Process Clause of the Fourteenth Amendment;

25 199. Declaring that under Count VII, the threatened denial by Defendants pursuant to
26 SB5599 of Plaintiffs' right to have adequate notice of what the law commands or forbids leads to
27 the result that SB 5599 is void for vagueness and thus violates the federal Due Process Clause;

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200. Enjoining Defendants through a preliminary injunction, to be succeeded by a permanent injunction, from enforcing the challenged provisions of SB 5599;

201. Awarding reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and other applicable laws; and

202. Granting any other relief the Court deems just, proper, and appropriate.

///

1 August 16, 2023.

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