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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

D.T., et al.,	No. CV-20-00484-TUC-JAS
Plaintiffs,	<b>ORDER</b>
v.	
Cara M. Christ, et al.,	
Defendants.	

The Court has reviewed all of the parties’ filings in this case. Upon reviewing Defendants’ response to Plaintiffs’ motion for a preliminary injunction, it does not appear that Defendants are necessarily opposed to the ultimate relief Plaintiffs seek in this case. *See Docs. 1, 3, 23.*

Plaintiffs are three transgender kids (ages 6, 10, and 13) that are alleged to have been discriminated against and harassed based solely on their transgender status. *See Docs. 1, 3.* Plaintiffs seek to amend their birth certificates to coincide with their gender identity, as opposed to the sex corresponding to their external genitalia at birth. *See id.* Plaintiffs argue that these amendments are necessary as their current birth certificates conflict with their gender identity, and these birth certificates improperly reveal their transgender status (such as when registering for schools, attendance sheets, sports, and other school activities) which results in discrimination and harassment which detrimentally impacts the mental and physical health of these transgender kids. *See id.* Plaintiffs argue, however, that Arizona law does not permit them to amend their birth certificates unless they undergo gender

1 reassignment surgery; however, such surgery at these young ages is not the accepted or  
2 recommended medical practice, and may never be necessary. As such, Plaintiffs seek an  
3 Order from this Court directing Defendants to amend their birth certificates without the  
4 requirement of surgery.

5 Defendants' response to the motion for a preliminary injunction reflects that they  
6 will amend Plaintiffs' birth certificates administratively if they receive a court order  
7 directing them to do so. *See* Doc. 23 at 5 ("Defendants and the Department comply with  
8 the vital records statutes, A.R.S. title 36, chapter 3, and rules, A.A.C. title 9, chapter 19,  
9 and therefore will amend the sex/gender field on a birth certificate when ordered to do so.  
10 Colburn Decl. ¶¶ 3, 5, 6. When the Department receives (1) a written request for an  
11 amended birth certificate in a Department-approved format from a person, or the person's  
12 parent or legal guardian if the person is a minor; (2) the applicable fee payment; and (3) a  
13 court order ordering an amendment to the sex/gender field on the person's birth certificate,  
14 the Department will make the amendment without requiring proof that the person has  
15 undergone surgery. Colburn Decl. ¶ 6. This is not hypothetical—this has been and is  
16 presently occurring at the Department . . . The Department *has received* and *has amended*  
17 the sex/gender field on individuals' birth certificates based on court orders to do so. *Id.* ¶  
18 7. When the Department has received written requests to amend the sex/gender fields on  
19 individuals' birth certificates together with fee payments and court orders ordering an  
20 amendment to the sex/gender fields on the individuals' birth certificates, it has amended  
21 the sex/gender fields without requiring proof that the individuals have undergone surgery.  
22 *Id.*"); *Id.* at 7-8 ("Defendants, the Department, and Arizona law do not require individuals  
23 to have undergone surgery before being able to amend the sex/gender field on their  
24 registered birth certificates. A.R.S. § 36-337(A)(4), A.A.C. R9-19-208(B), (P)(2); Colburn  
25 Decl. ¶¶ 3-7 . . . Jane Doe is not required to undergo surgery before being able to amend  
26 the sex/gender field on her registered birth certificate.").

27 Based on the current record before the Court, there does not appear to be any dispute  
28 that best medical and psychological practices reflect: (1) gender reassignment surgery is

1 not required or recommended for young transgender kids (i.e., 6, 10, and 13 in this case)  
2 diagnosed with gender dysphoria; (2) gender reassignment surgery may never be necessary  
3 or recommended for those with gender dysphoria (i.e., there are many factors that come  
4 into play that vary for each individual's circumstances); (3) amending important identity-  
5 related documents (such as birth certificates) to coincide with a transgender minor's gender  
6 identity (as opposed to their external genitalia) is vital to their mental and physical well-  
7 being; and (4) that failure to amend such documents (such as birth certificates) improperly  
8 reveals a transgender minor's transgender status to school officials and classmates, which  
9 results in discrimination and harassment based on their transgender status, and this is  
10 detrimental to a transgender minor's mental and physical health. *See* Docs. 1, 3, 23.

11 Defendants do not dispute that the ultimate relief Plaintiffs seek (amending their  
12 birth certificates) is warranted or otherwise legally prohibited; rather, Defendants only  
13 argue that Jane Doe is not entitled to a preliminary injunction because the relief she seeks  
14 is already available to her under Arizona's current laws, regulations, and practices. *See id.*

15 The Court notes that Plaintiffs' Complaint generally alleges that two of the Plaintiffs  
16 (D.T. and Helen Roe) may have previously sought a court order relating to changing the  
17 gender on their birth certificates, but they were unable to obtain the necessary relief. *See*  
18 Doc. 1 (Complaint at ¶57 and ¶78). However, the Complaint does not reflect that  
19 Defendants were specifically ordered by a court to change the gender on their birth  
20 certificates by a specific date, that Plaintiffs submitted those orders through the  
21 administrative process discussed herein, and that Defendants refused to change the gender  
22 on their birth certificates.

23 In light of the current record before the Court, it appears that the parties and the  
24 Court may be able to reach an efficient and final resolution of this case benefitting these  
25 children if the parties consult and can reach an agreement that they submit to the Court. It  
26 appears that all three children have been diagnosed and are being treated for gender  
27 dysphoria, and that the best medical and psychological practices do not recommend  
28 surgery, and recommend that important identifying documents (such as birth certificates)

1 be amended to coincide with one's gender identity for their mental and physical well-being.  
2 After the parties consult, and if there is no opposition, the Court can issue three separate  
3 orders as to each child where Defendants must amend their birth certificates by a specific  
4 date; if the parties stipulate (or if Defendants take no position or agree not to file an  
5 opposition), the parties (or just Plaintiffs) can submit mutually agreeable proposed orders  
6 for the Court to approve. Once Plaintiffs have those signed orders, Plaintiffs should be in  
7 a position to initiate the administrative process to expeditiously obtain the final relief they  
8 seek without the necessity of years of litigation.

9 Accordingly, IT IS HEREBY ORDERED as follows:

10 (1) By no later than 11/20/20, the parties shall confer to discuss the issues raised by  
11 the Court. If the parties reach an agreement, and they believe that Jane Doe's  
12 reply brief (due on 11/22/20) is unnecessary, they shall file a notice forthwith  
13 which shall act as a stay of that deadline. By no later than 11/24/20, the parties  
14 shall file a joint report reflecting the parties' agreement (or lack thereof) as to  
15 the issues raised by the Court. If they reach an agreement, they shall include in  
16 the joint report the best way to proceed, and may submit any proposed orders to  
17 the Court on 11/24/20 or thereafter pursuant to their agreement. If the parties  
18 can not reach an agreement, this case shall proceed as previously ordered by the  
19 Court.

20 Dated this 17th day of November, 2020.

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Honorable James A. Soto  
United States District Judge