

1 Mariah Gondeiro, Esq., CA Bar No. 323683
2 mgondeiro@faith-freedom.com
3 Julianne Fleischer, Esq., CA Bar No. 337006
4 jfleischer@faith-freedom.com
5 ADVOCATES FOR FAITH & FREEDOM
6 25026 Las Brisas Road
7 Murrieta, California 92562
8 Tel: (951) 600-2733
9 Fax: (951) 600-4996
10 Attorneys for Plaintiff

11 **UNITED STATES DISTRICT COURT**
12 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
13 **WESTERN DIVISION**

14 **OUR WATCH WITH TIM**
15 **THOMPSON**, a California non-profit
16 organization;

17 Plaintiff,

18 vs.

19 **ROB BONTA**, the attorney general of
20 California;

21 Defendants.

Case No.: 2:23-cv-00422-DAD-DB

**VERIFIED FIRST AMENDED
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

DEMAND FOR JURY TRIAL

22 **INTRODUCTION**

23 1. This action seeks to vindicate one of the most fundamental and longstanding
24 constitutional rights: the right of parents to raise their children. *See, e.g., Pierce v. Soc’y*
25 *of the Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510, 535 (1925) (“The child
26 is not the mere creature of the state; those who nurture him and direct his destiny have
27 the right, coupled with the high duty, to recognize and prepare him for additional
28 obligations.”); *Troxel v. Granville*, 530 U.S. 57, 72-73 (2000) (“[A] State [may not]

1 infringe on the fundamental right of parents to make child rearing decisions simply
2 because a state judge believes a ‘better’ decision could be made.”).

3 2. California recently passed Senate Bill (“SB”) 107, which violates the right
4 of parents to direct the upbringing and care of their child. SB 107 allows minors to obtain
5 gender transition procedures like harmful puberty blockers, cross-sex hormones, and
6 irreversible surgeries without parental consent, while denying parents access to their
7 child’s medical information. The bill also allows California to exercise “emergency
8 jurisdiction” over minors seeking gender dysphoria treatment.

9 3. Court precedent affirms the right of parents to make medical decisions for
10 their children. “The right to family association includes the right of parents to make
11 important medical decisions for their children, and of children to have those decisions
12 made by their parents rather than the state.” *Wallis v. Spencer*, 202 F.3d 1126, 1141 (9th
13 Cir. 2000); *see also Calabretta v. Floyd*, 189 F.3d 808 (9th Cir.1999) (holding that “[t]he
14 government’s interest in the welfare of children embraces not only protecting children
15 from physical abuse, but also protecting children’s interest in the privacy and dignity of
16 their homes and in the lawfully exercised authority of their parents.”).

17 4. Parents, not the government, are best suited to decide whether their child
18 should undergo a life-altering and irreversible surgery that seeks to change the sex of the
19 child.

20 5. For instance, research reveals that 80 to 95 percent of children who
21 experience gender confusion will ultimately embrace their biological sex if they are not
22 encouraged to pursue gender identity treatments.¹ Even transgender activist
23
24

25 ¹ E.g., Kenneth J. Zucker, *Gender Dysphoria in Children and Adolescents*, in PRINCIPLES
26 AND PRACTICES OF SEX THERAPY 395,407 (6th ed., 2020), available at
27 [https://www.sribd.com/document/516620519/Principles-and-Practice-of-Sex-Therapy-Sixth-Edition-by-Kathryn-S-K-Hall-Yitzchak-M-Binik; Stephen B. Levine, Reflections on the Clinician’s Role with Individuals Who Self-identify as Transgender, Arch. Sex. Behav. \(2021\), Available at https://doi.org/10.1007/s10508-021-02142-1.](https://www.sribd.com/document/516620519/Principles-and-Practice-of-Sex-Therapy-Sixth-Edition-by-Kathryn-S-K-Hall-Yitzchak-M-Binik; Stephen B. Levine, Reflections on the Clinician’s Role with Individuals Who Self-identify as Transgender, Arch. Sex. Behav. (2021), Available at https://doi.org/10.1007/s10508-021-02142-1.)
28

1 organizations recommend that health professionals defer to parents “as they work
2 through the options and implications” of gender dysphoria in their child. ²

3 6. SB 107 also violates the Full Faith and Credit Clause to the United States
4 Constitution, which requires California to defer to the laws and jurisdiction of the 49
5 other states regarding the care and custody of children. SB 107 overrides the jurisdiction
6 of courts in a family’s home state that are usually the proper forum for custody
7 determinations by allowing California courts to take jurisdiction to make custody
8 determinations over a child struggling with gender dysphoria. California has decided that
9 its courts—not those of the family's home state—should be the final arbiters of whether
10 parents are fit to raise their child.

11 7. California has neither a legitimate nor legal interest in exceeding its
12 jurisdiction by taking deeply personal, intimate, and life-altering medical decisions of
13 out of state children into their own hands.

14 8. Plaintiff Our Watch With Tim Thompson is a 501(c)(3) organization
15 dedicated to protecting family and parental rights in California. Our Watch With Tim
16 Thompson has had to divert organizational resources to address the effects of SB 107,
17 including implementing education programs and designing and disseminating literature
18 and podcasts to reach churches and parents outside of California.

19 9. In sum, the sweeping changes adopted by SB 107 create gaping holes in
20 child custody, criminal investigation, and the apprehension and extradition of child
21 abductors. SB 107 makes it possible for parents and minors to avoid even the most
22 minimal of safeguards in place regarding life-altering medical procedures for children.
23 Parents and third parties can avoid any scrutiny about what they are subjecting a child
24 to. Simple and necessary guardrails like age limitations, parental consent requirements,
25

26 ² World Professional Association for Transgender Health, Standards of Care for the Health of
27 Transsexual, Transgender, and Gender-Nonconforming People at 17 (version 7, 2012) (“WPATH
28 Guidelines”), available at https://www.wpath.org/media/cms/Documents/SOC%20v7/SOC%20V7_English2012.pdf?t=613669341.

1 psychological status, diagnostic requirements, etc., as adopted by other states, can all be
2 circumvented provided that the child sets foot in California. California courts must take
3 jurisdiction over any child who arrives in California for any type of gender affirming
4 care.

5 10. Accordingly, Plaintiff seeks declaratory relief holding SB 107
6 unconstitutional, injunctive relief preventing further enforcement of SB 107, and
7 reasonable attorneys' fees.

8 **PARTIES – PLAINTIFFS**

9 11. Plaintiff OUR WATCH WITH TIM THOMPSON (“Our Watch”),
10 governed by Pastor Tim Thompson, is a California non-profit public benefit corporation
11 committed to protecting family and parental rights, religious liberty, and the right to life
12 across California. Our Watch accomplishes its mission through legislative advocacy,
13 education of California citizens, and mobilization of California citizens to get involved
14 in community events.

15 12. Specifically, Our Watch’s mission is committed to tackling major cultural
16 issues, including the sexual indoctrination of children, critical race theory, and abortion
17 rights. Our Watch firmly believes that transgenderism is a cultural issue that it must deal
18 with in accordance with God’s design for every child, as outlined in the Bible. SB 107
19 conflicts with Our Watch’s mission by allowing children, without parental consent, to
20 change their identity and therefore God’s design for their life and by stripping parents of
21 custody.

22 13. Our Watch is directly harmed by SB 107. Since the enactment of SB 107,
23 Our Watch has diverted resources from its other focus areas like critical race theory and
24 abortion rights to counteract the harms to parental rights resulting from SB 107. The
25 organization has implemented new educational outreach programs both inside and
26 outside of California and even funded de-transitioning teenagers to come on the
27 organization’s podcast to speak on the issue.

1 19. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1)–(2) because all
2 Defendant are situated in this judicial district.

3 FACTUAL BACKGROUND

4 **Gender Dysphoria In Children**

5 20. “Gender dysphoria” refers to the psychological distress often associated with
6 the mismatch between a person’s biological sex and his or her perceived gender identity.
7 Gender dysphoria is a serious mental health condition that requires professional help.

8 21. Multiple studies have found that approximately 80-95% of children who
9 experience gender dysphoria ultimately find comfort with their biological sex and cease
10 experiencing gender dysphoria as they age if they are not encouraged to pursue gender
11 identity treatments. *E.g.*, Zucker, *supra* ¶ 4, at 407 (summarizing studies); Levine, *supra*
12 ¶ 4 (same).

13 22. There is a disagreement in the medical community about the proper
14 approach when a child experiences gender dysphoria, specifically whether a social
15 gender transition is appropriate for children. Some mental health professionals believe
16 that socially transitioning to a different gender identity during childhood, and affirmation
17 of that alternative identity by adults, can become self-reinforcing and have profound
18 long-term effects on the child’s psyche and identity. *E.g.*, Kenneth J. Zucker, *The Myth*
19 *of Persistence: Response to “A Critical Commentary on Follow-Up Studies &*
20 *‘Desistance’ Theories about Transgender and Non-Conforming Children”* by Temple
21 *Newhook et al.*, 19:2 Int’l J. of Transgenderism 231 (2018)³ (“I would argue that parents
22 who support, implement, or encourage a gender social transition (and clinicians who
23 recommend one) are implementing a psychosocial treatment that will increase the odds
24 of long-term persistence.”)

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26
27 ³ Kenneth J. Zucker, *The Myth of Persistence: Response to “A Critical Commentary on Follow-*
28 *Up Studies & ‘Desistance’ Theories about Transgender and Non-Conforming Children”* by Temple
Newhook et al., 19:2 Int’l J. of Transgenderism 231 (2018). Available at
<https://www.researchgate.net/publications/325443416>.

1 23. Other medical and psychiatric professionals believe that the best response
2 is to affirm a child’s perceived gender identity and to support a social transition to that
3 identity.

4 24. However, medical professionals on both sides of the debate generally agree
5 that social transitions are a significant psychotherapeutic intervention that can drastically
6 change outcomes in children.

7 25. Given the lack of evidence on long-term outcomes and divergent views on
8 this sensitive issue, the World Health Professional Association for Transgender Health
9 (“WPATH”), a transgender advocacy organization, recommends that health
10 professionals defer to *parents* “as they work through the options and implications,” even
11 if they ultimately “do not allow their young child to make a gender-role transition.”
12 WPATH Guidelines, *supra* ¶ 4, at 17.

13 26. If medical professionals agree that social transitions are a significant
14 intervention for children, medical transitions are even more significant. Yet, many clinics
15 in the United States are quick to offer irreversible medical treatment, including puberty
16 blocking hormones and gender reassignment surgeries, to kids who would otherwise
17 outgrow their gender-questioning. These treatments are offered despite known long-term
18 and often irreversible side effects.

19 27. For example, puberty blocking hormones can permanently alter
20 neurodevelopment, sexual function, and bone development in children. *See* Jorgensen,
21 S.C.J., Hunter, P.K., Regenstreif, L., Sinai, J. and Malone, W.J. (2022), *Puberty blockers*
22 *for gender dysphoric youth: A lack of sound science*. *J Am Coll Clin Pharm*, 5: 1005-
23 1007, at 1005 (citing studies).⁴ Further, it has been suggested that puberty suppression
24 may alter the course of gender identity development, essentially “locking in” a gender
25

26
27 ⁴ Jorgensen, S.C.J., Hunter, P.K., Regenstreif, L., Sinai, J. and Malone, W.J. (2022), *Puberty*
28 *blockers for gender dysphoric youth: A lack of sound science*. *J Am Coll Clin Pharm*, 5: 1005-1007, at
1005. Available at <https://doi.org/10.1002/jac5.1691>

1 identity that may have reconciled with biological sex during the natural course of
2 puberty. *Id.*

3 28. There is no doubt that gender reassignment surgery causes life-long,
4 irreversible side effects in children. Girls as young as 14⁵ can have their breasts
5 permanently cut off. While reconstruction surgeries are available, girls are left with
6 permanent scars and disfigurement and a lack of function and sensation in their breasts.

7 29. No large-scale, long-term studies have tracked the incidence of detransition
8 and regret among patients who received gender-affirming medical treatment as minors.
9 This is due in large part to these subjects being untouchable within the medical and
10 research communities. However, preliminary studies in the United States have shown
11 that more than a quarter of patients who started gender-affirming hormones before age
12 18 stopped getting refills for their medication within four years. *See* Christina M Roberts,
13 David A Klein, Terry A Adirim, Natasha A Schvey, Elizabeth Hisle-Gorman,
14 Continuation of Gender-affirming Hormones Among Transgender Adolescents and
15 Adults, *The Journal of Clinical Endocrinology & Metabolism*, Volume 107, Issue 9,
16 September 2022, Pages e3937–e3943.⁶

17 30. While there are no long-term studies reflecting the incidence of regret and
18 detransition in minors, there exists countless lived experiences of minors who socially or
19 medically transitioned and later reversed course. Chloe Cole is one such example.⁷
20
21

22 ⁵ *See* Peter Rowe (April 14, 2016) *Surgery Unburdens Transgender Boy*. LA Times. Available
23 at: <https://www.latimes.com/local/california/la-me-transgender-teen-20160414-story.html> (discussing
story of 14-year-old girl who received gender reassignment surgery).

24 ⁶ Christina M Roberts, David A Klein, Terry A Adirim, Natasha A Schvey, Elizabeth Hisle-
25 Gorman, Continuation of Gender-affirming Hormones Among Transgender Adolescents and
26 Adults, *The Journal of Clinical Endocrinology & Metabolism*, Volume 107, Issue 9, September 2022,
Pages e3937–e3943. Available at <https://doi.org/10.1210/clinem/dgac251>.

27 ⁷ Robin Respaut, Chad Terhune, Michelle Conlin (December 22, 2022) *Why Detransitioners*
28 *are Crucial to the Science of Gender Care*. Reuters. Available at:
<https://www.reuters.com/investigates/special-report/usa-transyouth-outcomes/> (telling Cole's story of
transition and detransition as a minor).

1 31. Cole was 13 when doctors placed her on puberty blockers, followed a few
2 weeks later by testosterone. At 15, Cole wanted breast removal surgery. Her parents
3 wanted her to wait until she was older to undergo such treatment; however, doctors
4 readily agreed to a double mastectomy for Cole.

5 32. In June 2020, surgeons performed a mastectomy on Cole – just one month
6 before her sixteenth birthday. Less than a year later, Cole regretted her surgery and
7 medical transition following a discussion about breastfeeding and pregnancy. Cole has
8 reconciled with her biological sex, but she is still suffering with long-term effects from
9 her surgery, including severed nerve endings, permanent changes in pigmentation, and
10 fluid emission.⁸ Cole regrets that this surgery stripped her of “the beauty of motherhood”
11 at an age when she was not able to fully comprehend the loss. Cole now speaks out
12 publicly to end gender-affirming care for minors.

13 33. There are many other stories like Cole’s, including Max Robinson and Max
14 Lizzara⁹, which reflect that gender-affirming healthcare for minors is a nuanced and
15 sensitive issue – one that parents should be intimately involved in.

16 **Senate Bill 107**

17 34. On September 29, 2022, Governor Gavin Newsom signed into law SB 107,
18 rendering California a sanctuary state. The law allows minor children from any state to
19 obtain puberty blockers and cross-sex hormones and undergo irreversible surgeries
20 without parental involvement.

21 35. SB 107 was initially drafted by Senator Scott Wiener “in response to recent
22 executive and legislative action in states like Alabama and Texas” that have banned
23 minors from receiving sterilizing puberty blockers, cross-sex hormones, and transgender
24

25 ⁸ Edie Hepel (September 24, 2022) *Meet Chloe Cole, The 18-Year-Old Leading The Fight To*
26 *Protect Children From Transgender Surgeries*. Catholic News Agency.
27 [https://www.catholicnewsagency.com/news/252376/chloe-cole-leading-fight-to-protect-children-](https://www.catholicnewsagency.com/news/252376/chloe-cole-leading-fight-to-protect-children-from-transgender-surgeries)
28 [from-transgender-surgeries](https://www.catholicnewsagency.com/news/252376/chloe-cole-leading-fight-to-protect-children-from-transgender-surgeries) (Cole speaks of the long-term effects of her surgeries).

⁹ *Supra* 7.

1 surgeries or that have labeled these treatments as child abuse. A true and correct copy of
2 Senator Wiener’s statement is attached hereto as Exhibit 1.

3 36. For example, Arizona recently passed a law that requires transgender kids
4 to wait until 18 to receive gender reassignment surgery. Discussing the bill, Governor
5 Doug Doucey stated, “The reason is simple, and common sense – this is a decision that
6 will dramatically affect the rest of an individual’s life, including the ability of that
7 individual to become a biological parent later in life.”¹⁰

8 37. In Texas, it is now considered child abuse to subject children to a wide
9 variety of medical treatments for gender transitioning, including reassignment surgeries
10 and administration of puberty-blocking drugs or supraphysiologic doses of testosterone
11 or estrogen. Texas Governor Greg Abbott and Attorney General Ken Paxton specifically
12 highlighted “issues of physical and emotional harm associated with these procedures and
13 treatments” and noted every child’s fundamental right to procreation.¹¹

14 38. Governor Newsom signed SB 107 into law because “[s]tates across the
15 country [were] passing laws to demonize the transgender community....” The bill is a
16 direct attack on the laws and policies of other states like Alabama and Texas.

17 **SB 107’s Definition of Gender Affirming Health Care and Gender Affirming**
18 **Mental Health Care**

19 39. The terms “gender affirming health care” and “gender affirming mental
20 health” are defined in Section 16010.2 of the California Welfare and Institutions Code¹²,
21 which reads: (A) Gender affirming health care means medically necessary health care
22

23 _____
24 ¹⁰ Dani Birzer (March 30, 2022) *Arizona Governor Signs Two Bills Impacting Transgender*
25 *Minors*. The Associated Press. Available at <https://www.kold.com/2022/03/30/arizona-governor-signs-two-bills-impacting-transgender-minors/> (discussing Arizona’s Senate Bill 1138).

26 ¹¹ In 2022, Governor Greg Abbott wrote a letter directing the Texas Department of Family and
27 Protective Services to investigate for child abuse any parents who subject their children to sex-change
28 procedures based on a legal opinion from Attorney General Ken Paxton. That letter and supporting legal
opinion is available here: <https://gov.texas.gov/uploads/files/press/O-MastersJaime202202221358.pdf>.

¹² S.B. 107 adopts these definitions in their entirety. *See* S.B. 107 §§ 1-10.

1 that respects the gender identity of the patient, as experienced and defined by the patient,
2 and may include, but is not limited to, the following:

3 (i) Interventions to suppress the development of endogenous secondary sex
4 characteristics.

5 (ii) Interventions to align the patient's appearance or physical body with the
6 patient's gender identity.

7 (iii) Interventions to alleviate symptoms of clinically significant distress
8 resulting from gender dysphoria, as defined in the Diagnostic and Statistical
9 Manual of Mental Disorders, 5th Edition.

10 (B) Gender affirming mental health care means mental health care or behavioral
11 health care that respects the gender identity of the patient, as experienced and defined by
12 the patient, and may include, but is not limited to, developmentally appropriate
13 exploration and integration of identity, reduction of distress, adaptive coping, and
14 strategies to increase family acceptance.

15 40. The definition of gender affirming healthcare permits the patient – a child –
16 to determine interventions that she believes are medically necessary for herself as well
17 as those which align with her desired identity. Medical interventions could include
18 gender reassignment surgeries, which are surgeries designed to remove secondary sex
19 characteristics. Gender affirming mental health care could encompass social transition
20 through the use of the child’s chosen name and pronouns.

21 41. Historically, gender treatments for minors required a diagnosis of gender
22 dysphoria as defined in the Diagnostic and Statistical Manual of Mental Disorders
23 (DSM-5). At a minimum, the child needs to meet certain criteria, i.e., gender distress
24 must be experienced consistently, persistently, and insistently for a minimum of six
25 months.

26 42. The California “gender-affirming care” definitions and related laws have no
27 requirement that the child suffer from gender dysphoria before embarking on the path of
28 gender transition, which can have life-long consequences. On a whim, the child can

1 decide she does not like her breasts, and the removal of them would be covered under
2 the definition of “gender affirming health care” whether or not her distress rises to the
3 level of a gender dysphoria diagnosis.

4 43. There is no requirement of a mental health assessment to determine that the
5 child has gender dysphoria before he or she can start taking irreversible cross-sex
6 hormones.

7 **SB 107’s Amendments to California Law**

8 44. Section 1 of SB 107 amends California Civil Code §56.109 to mandate that
9 doctors “shall not release medical information related to a person or entity allowing a
10 child to receive gender-affirming health care or gender-affirming mental health care in
11 response to any civil action, including a foreign subpoena...” S.B. 107 § 1(a). The term
12 “person” relative to this statute is defined expansively and ambiguously to include an
13 individual, governmental subdivision, agency, or instrumentality. The expansive
14 definition of “person” will protect government entities, including foster care, shielding
15 them from civil action should they improperly subject a child to transgender medicine.

16 45. Section 1 also mandates that doctors conceal a child's medical information
17 from “persons or entities...who are authorized by law to receive that information”, “in
18 response to any civil action, including a foreign subpoena, based on another state’s law
19 that authorizes a person to bring a civil action against a person or entity that allows a
20 child to receive gender-affirming health care or gender-affirming mental health care.”
21 S.B. 107 § 1(b). This provision makes no exception for custodial parents in another state
22 requesting access to such information.¹³

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24
25 ¹³ California law generally gives parents access to their children’s medical records. *See* Cal.
26 Health & Saf. Code §§ 123105 & 123110; *see also* Cal. Civ. Code § 56.10(b)(7)). However, California
27 law provides exceptions, such as when “the health care provider determines that access to the patient
28 records requested by the representative would have a detrimental effect on the provider’s professional
relationship with the minor patient or the minor’s physical safety or psychological well-being.” Cal.
Health & Saf. Code § 123115(a)(2). This section may be utilized in tandem with SB 107 to prevent
parental access to medical records.

1 46. Section 2 of the SB 107 amends Code of Civil Procedure §2029.300. This
2 section is designed to permit litigants in other states to obtain records and discovery from
3 persons in the state of California for evidentiary purposes of litigation in the parties’
4 home state. Section 2 blocks the receipt of certain records from California for use in other
5 states’ actions: “no subpoena shall be issued pursuant to this section if the foreign
6 subpoena is based on a violation of another state’s laws that interfere with a person’s
7 right to allow a child to receive gender-affirming health care or gender-affirming mental
8 health care.” S.B. 107 § 2(e).

9 47. The result of Section 2 is two-fold. First, if the foreign subpoena requests
10 for records relates to “sensitive services,” the potential respondent cannot comply
11 regardless of any agreement or court order to the contrary. *See* S.B. 107 § 2.5(e)(2).
12 Second, Section 2 forbids a potential respondent from providing documents and records
13 if the foreign subpoena is “based on a violation of another state’s laws that interfere with
14 a person’s right to allow a child to receive gender-affirming health care or gender-
15 affirming mental health care.” S.B. 107 § 2(e). A “person” is ambiguously defined and
16 could include a schoolteacher, a court-appointed counsel, a trans advocate, a neighbor or
17 anyone.

18 48. Section 3 of SB 107 is similar to Section 2, but it places its onus on attorneys
19 handling foreign subpoenas relating to a child’s receipt of gender-affirming health care
20 or gender-affirming mental health care. S.B. 107 § 3.

21 49. Sections 4, 5, 6, and 7 of SB 107 amend California’s version of the Uniform
22 Child Custody Jurisdiction and Enforcement Act (“UCCJEA”)¹⁴. S.B. 107 §§ 4, 5, 6, and
23

24 ¹⁴ California’s version of the UCCJEA is currently codified at California Family Code §§ 3400-
25 3465. SB 107 was passed despite concerns that it violated the Uniform Child Custody Jurisdiction
26 Enforcement Act. The California Family Council posted footage of the CA Public Safety Committee
27 hearing concerning SB 107 and the UCCJEA. It is available here:
28 <https://www.youtube.com/watch?v=A-Lf3X6-og0>. The California Family Council also summarized
that hearing in this article: California Family Council (July 18, 2022) *New Bill Lets Courts Take Custody
of Minors Who Flee to CA for Trans-Treatments*. Available at:
[https://www.californiafamily.org/2022/07/new-bill-lets-courts-take-custody-of-minors-who-flee-to-
ca-for-trans-treatments/](https://www.californiafamily.org/2022/07/new-bill-lets-courts-take-custody-of-minors-who-flee-to-ca-for-trans-treatments/).

1 7. Currently, 49 states have enacted the UCCJEA to prevent parents from crossing state
2 lines to avoid custody orders and visitation orders from their home state. SB 107 disrupts
3 this multi-state law and renders all non-Californian custody agreements illusory. SB 107
4 carves out substantial changes to the standardized Act that has served to protect parents
5 and the best interests of children for close to two decades. Any exception to this well-
6 established Act allows states to pit their custody laws against each other for political
7 gain.

8 50. Section 4 of SB 107 amends Section 3421 of the Family Code that grants
9 California courts jurisdiction to make the initial child custody agreements in certain
10 circumstances. Generally, there needs to a sufficient nexus between the state of
11 California and the parents or the child for California courts to have control. SB 107 turns
12 the UCCJEA on its head, as no nexus is needed for California to take jurisdiction.

13 51. The language of Section 4 states in relevant part: “The presence of a child
14 in this state for the purpose of obtaining gender-affirming health care or gender affirming
15 mental health care as, defined by paragraph (3) subdivision (b) of Section 106010.2 of
16 the Welfare and Institutions Code, is sufficient to meet the requirements of paragraph (2)
17 of subdivision (a).” S.B. 107 § 4; *see also* Cal. Fam. Code §3421(d). This amendment
18 gives California court’s jurisdiction over the child to make initial custody determinations
19 irrespective of any lack of connection of that child – or the parents - with California. The
20 bill only requires that the child – not the child and parents – be present in California for
21 the purpose of obtaining gender-affirming health care or gender-affirming mental health
22 care. This, of course, will open a flood of children, regardless of their parents’ or
23 guardians’ approval, entering the state.

24 52. The UCCJEA also uniformly recognizes the need to protect children in
25 emergency situations, no matter where they are located when the emergency arises. Thus,
26 the UCCJEA gives courts temporary emergency jurisdiction when a child is in the state
27 and an emergency makes it necessary to protect the child because the child, or a sibling
28

1 or parent of the child, is subjected to, or threatened with, mistreatment or abuse. UCCJEA
2 § 204; *see also* Cal. Fam. Code § 3424(a).

3 53. Section 5 of SB 107 amends Family Code Section 3424 to expand the
4 circumstances under which a California court may take “temporary emergency
5 jurisdiction” over a child. S.B. 107 § 5. SB 107 now “provides that a court of this state
6 has temporary emergency jurisdiction over a child if the child is present in the state
7 because the child has been unable to obtain gender-affirming health care or gender-
8 affirming mental health care.” SB 107 (Wiener) Sen. Floor Analysis, at 4 (Aug. 30,
9 2022). California is codifying that it is child mistreatment or abuse not to submit your
10 gender confused child to experimental gender treatments. There is no evidence that
11 gender care is an exigent need.

12 54. Pursuant to Section 5, which changes the nationally accepted UCCJEA, the
13 California courts have emergency jurisdiction¹⁵ of a child who, with or without parents,
14 is present in the state of California regardless of whether the child’s state permitted
15 gender affirming care. S.B. 107 § 5. The only necessary factor is that the child is present
16 in the state to get gender-affirming health care or gender affirming mental health care.
17 The law permits California entities, Child and Family Services, foster care, and other
18 non-parents to obtain emergency custody of a child so that child can avoid parents who
19 refuse to consent to gender interventions or are fearful that puberty blockers will result
20 in a myriad of long term affects.¹⁶ The child can avoid any limitations of his home state

21 ¹⁵ Once emergency jurisdiction is established, the UCCJEA prescribes the remaining custody
22 process. If there is no previous child custody determination, the parent or guardian of the child seeking
23 gender-reassignment treatments may commence custody proceedings in California under SB 107
24 Section 4, or any other state having jurisdiction. The emergency order remains in effect “until an order
25 is obtained from a court of a state having jurisdiction.” Cal. Fam. Code, § 3424(b). If no child custody
26 proceeding is commenced in a court of a state having jurisdiction, the emergency order “becomes a
final determination... and [California] becomes the home state of the child.” *Id.* If there is a previous
child custody determination, or a child custody proceeding has been having jurisdiction, the emergency
order must specify “remains in effect until an order is obtained from the other state within the period
specified or the period expires.” Cal. Fam. Code, § 3424(c).

27 ¹⁶ While California law generally requires parents to consent to medical treatment for minors
28 (*see* Cal. Code Regs. Tit. 9, § 784.29(a)), there are broad exceptions, which operating in tandem with
SB 107 would permit minors to receive this treatment without parental consent. For example, children

1 that might require him as a minor to get parental permission, be a certain age for certain
2 interventions, or have gone through a mental health assessment by getting himself to
3 California.

4 55. The UCCJEA generally allows a court to decline to exercise jurisdiction if
5 the court is an inconvenient forum based on factors such as the location of witnesses,
6 financial hardship to the parties, and the familiarity of a court in another state with the
7 family’s background. Cal. Fam. Code § 3427. Section 6 of SB 107 limits the court’s
8 discretion in the following manner: “In a case where the provision of gender-affirming
9 health care or gender-affirming mental health care to the child is at issue, a court of this
10 state shall not determine that it is an inconvenient forum where the law or policy of the
11 other state that may take jurisdiction limits the ability of a parent to obtain gender-
12 affirming health care or gender-affirming mental health care for their child.” S.B. 107 §
13 6.

14 56. California law generally prohibits “unjustifiable conduct” to get jurisdiction
15 in a California court for custody determinations. Cal. Fam. Code § 3428. Section 7 of SB
16 107 creates a carve-out from the universal UCCJEA, explicitly stating that “taking of a
17 child” away “from the person who has legal custody” is not unjustifiable conduct if done
18 to pursue gender transition procedures in California. S.B. 107 § 7. As section 7 reads,
19 parental kidnapping—when allegedly done for ideological purposes—is no longer
20 deemed unjustifiable conduct.

21 57. Section 8 of SB 107 prohibits California courts from enforcing “a law of
22 another state that authorizes a state agency to remove a child from their parent or
23 guardian based on the parent or guardian allowing their child to receive gender-affirming

24 _____
25 in foster care have a right to receive transgender healthcare. *See* California Welfare and Institutions
26 Code § 16010.2. DCFS can consent to treatment for the minor, including surgery if the minor is over
27 14 years of age (*See* DCFS Child Welfare Policy Manual, available at <https://policy.dcfslacounty.gov/>).
28 Courts and established guardians can also consent to treatment for the minor. *See* Cal. Fam. Code §§
6910, 6911. In addition, one parent can consent to treatment for the minor, in defiance of the other
parent, and be protected under SB 107. Consent can also be waived in emergencies. Cal. Code Regs.
tit. 9 § 853. Minors 12 and up do not need parental consent to receive gender-affirming mental health
care. *See* Cal. Health & Safety Code § 124260(b).

1 health care.” S.B. 107 § 8. This section is likely to result in many unconscionable rulings
2 stemming from SB107.

3 58. Sections 9 and 10 of SB 107 add to, and amend, sections of the Penal Code
4 to limit (and in some cases to prevent) California’s law enforcement agencies from
5 assisting other states’ prosecutions of people involved in providing or seeking gender-
6 affirming care.

7 59. Section 9 declares that “[i]t is the public policy of the state that an out-of-
8 state arrest warrant for an individual based on violating another state’s law against
9 providing, receiving, or allowing their child to receive gender-affirming health care or
10 gender-affirming mental health care is the lowest law enforcement priority.” S.B. 107 §
11 9. Section 9 further states that “California law enforcement agencies shall not knowingly
12 make or participate in the arrest or participate in any extradition of an individual pursuant
13 to an out-of-state arrest warrant for violation of another state’s law against providing,
14 receiving, or allowing a child to receive gender-affirming health care . . . if that care is
15 lawful under the laws of this state, to the fullest extent permitted by federal law.” *Id.*

16 60. Section 9 also prohibits state and local law enforcement agencies from
17 cooperating with or providing information to “any individual or out-of-state agency or
18 department” regarding “lawful gender-affirming health care” performed in California.
19 S.B. 107 § 9 (c). This section protects an out-of-state non-custodial parent who gets
20 gender care for their minor in California from prosecution because the treatment is lawful
21 in California, even though the treatment may violate an out-of-state custody agreement.

22 61. Section 10 of SB 107 addresses subpoenas in criminal actions, stating that
23 “a provider of health care, health care service plan, or contractor shall not release medical
24 information related to a person or entity allowing a child to receive gender-affirming
25 health care . . . in response to any foreign subpoena that is based on a violation of another
26 state’s laws authorizing a criminal action against a person or entity that allows a child to
27 receive gender-affirming care or gender-affirming mental health care.” S.B. 107 § 6.

28 62. Finally, Section 11 of SB 107 includes a severability clause. SB 107 § 11.

1 **FIRST CAUSE OF ACTION**
2 **VIOLATION OF THE DUE PROCESS CLAUSE**
3 **OF THE FOURTEENTH AMENDMENT**
4 **(42 U.S.C. § 1983)**

5 63. Plaintiff incorporates by reference the allegations in the preceding
6 paragraphs 1 through 62, as if fully set forth herein.

7 64. The Fourteenth Amendment provides that no State shall “deprive any
8 person of life, liberty, or property, without due process of law.” U.S. Const. Art. XIV.

9 65. The Due Process Clause, “guarantees more than fair process.” *Washington*
10 *v. Glucksberg*, 521 U.S. 702, 719 (1997). The Clause also includes a substantive
11 component that “provides heightened protection against government interference with
12 certain fundamental rights and liberty interests,” *Id.* at 720, including “the fundamental
13 right of parents to make decisions concerning the care, custody, and control of their
14 children.” *Troxel v. Granville*, 530 U.S. 57, 66 (2000).

15 66. “The right to family association includes the right of parents to make
16 important medical decisions for their children, and of children to have those decisions
17 made by their parents rather than the state.” *Wallis v. Spencer*, 202 F.3d 1126, 1141 (9th
18 Cir. 2000); *see also Calabretta v. Floyd*, 189 F.3d 808 (9th Cir.1999) (holding that “[t]he
19 government’s interest in the welfare of children embraces not only protecting children
20 from physical abuse, but also protecting children’s interest in the privacy and dignity of
21 their homes and in the lawfully exercised authority of their parents.”).

22 67. SB 107 violates the Due Process Clause by forbidding healthcare providers
23 from providing medical information related to “gender-affirming care” or “gender-
24 affirming mental health care.” S.B. 107 § 1. This provision makes no exception for
25 parents requesting access to these records.¹⁷ The bill also prevents parents from seeking

26 ¹⁷ California law generally gives parents access to their children’s medical records. *See* Cal.
27 Health & Saf. Code §§ 123105 & 123110; *see also* Cal. Civ. Code § 56.10(b)(7)). However, California
28 law provides exceptions, such as when “the health care provider determines that access to the patient
records requested by the representative would have a detrimental effect on the provider’s professional

1 court intervention to gain access to their child’s medical records. S.B. 107 § 2. Instead,
2 these sections protect government entities, including foster care, shielding them from
3 producing medical records should they improperly subject a child to transgender
4 medicine at the expense of fundamental parental rights.

5 68. SB 107 further violates the Due Process Clause because the bill allows the
6 “taking of the child” away from his or her parents to California to obtain gender transition
7 procedures. S.B. 107 § 7. California courts must then exercise jurisdiction over the child
8 either by emergency jurisdiction or making an initial custody determination pursuant to
9 the UCCJEA. S.B. 107 §§ 4, 5.

10 69. After exercising emergency jurisdiction pursuant to SB 107, the State can
11 emancipate the minor, enter the minor into the foster care system, or place the minor with
12 a guardian, allowing the minor to obtain gender-transition procedures.

13 70. SB 107 places parents in an untenable position. All children, regardless of
14 comorbid mental health issues, can receive gender care in California with no
15 impediments to the parents to prevent the harm, as California courts must take
16 jurisdiction. S.B. 107 §§ 4, 5, 6, and 7. SB 107 completely obliterates parents’ rights in
17 contravention of the US Constitution.

18 71. Plaintiff has suffered damages due to SB 107 because it has had to divert
19 resources to combat the devastating effects of the bill. The bill frustrates Plaintiff’s
20 mission – namely – the preservation of parental rights.

21 72. Plaintiff has no adequate remedy at law and will suffer irreparable harm
22 unless the Court enjoins Defendant’s violation of the Due Process Clause.

23 73. Plaintiff is entitled to recover their costs and attorneys’ fees under 42 U.S.C.
24 § 1988 plus injunctive relief and a judicial declaration that SB 107 is unconstitutional.

25
26
27 relationship with the minor patient or the minor’s physical safety or psychological well-being.” Cal.
28 Health & Saf. Code § 123115(a)(2). This section may be utilized in tandem with SB 107 to prevent
parental access to medical records.

1 78. SB 107 constitutes an “unwarranted interference” of parents’ rights to
2 familial association under the First Amendment and Fourteenth Amendment, as SB 107
3 allows the “taking of the child” away from his or her parents to California to obtain
4 gender transition procedures. S.B. 107 § 7. SB 107 mandates that California courts
5 exercise jurisdiction over children seeking gender dysphoria treatments. S.B. 107 §§ 4,
6 5.

7 79. The enforcement of SB 107 is the direct and legal cause of the deprivation
8 of parents’ constitutionally protected rights under the First and Fourteenth Amendments
9 to the association, companionship, and society of parent and child.

10 80. Plaintiff has no adequate remedy at law and will suffer irreparable harm
11 unless the Court enjoins Defendant’s violation of the Due Process Clause.

12 81. Plaintiff is entitled to recover their costs and attorneys’ fees under 42 U.S.C.
13 § 1988 plus injunctive relief and a judicial declaration that SB 107 is unconstitutional.

14 **THIRD CAUSE OF ACTION**
15 **VIOLATION OF THE FULL FAITH AND CREDIT**
16 **CLAUSE OF THE FOURTH AMENDMENT**
17 **(42 U.S.C. § 1983)**

18 82. Plaintiff incorporates by reference the allegations in the preceding
19 paragraphs 1 through 80, as if fully set forth herein.

20 83. The Full Faith and Credit Clause states: “Full faith and credit shall be given
21 in each state to the public acts, records, and judicial proceedings of every other state.
22 And the Congress may by general laws prescribe the manner in which such acts, records,
23 and proceedings shall be proved, and the effect thereof.” U.S. Const. Art. IV, § 1, cl. 1.

24 84. The Full Faith and Credit Clause demands that state court judgments be
25 accorded full effect in the courts of other states and precludes states from adopting any
26 “policy of hostility” toward the public acts of another state. *Franchise Tax Board v.*
27 *Hyatt*, 578 U.S. 171 (2016); *Franchise Tax Bd. of California v. Hyatt*, 139 S. Ct. 1485
28 (2019).

1 85. The clause also requires states to recognize judgments from other state
2 courts, so that “a cause of action merged in a judgment in one state is likewise merged
3 in every other.” *Magnolia Petroleum Co. v. Hunt*, 340 U.S. 430, 439 (1943).

4 86. 28 U.S.C. § 1738A generally requires each state to give full faith and credit
5 to child custody determinations made by another state, and further recognizes that a
6 child’s home state is generally the state with jurisdiction to make such determinations.

7 87. SB 107 violates the Full Faith and Credit Clause because the bill was passed
8 as a direct “policy of hostility” towards statutes passed in other states, which restrict or
9 criminalize gender-transition procedures for minors.

10 88. For instance, State Senator Scott Wiener, the sponsor of SB 107, stated that
11 SB 107 was “[i]n response to recent executive and legislative action in states like
12 Alabama and Texas.” See Exhibit 1. Governor Newsom similarly commented that he
13 was signing SB 107 because “[s]tates across the country [were] passing laws to demonize
14 the transgender community.”

15 89. California specifically exempted children obtaining gender-affirming care
16 from its general rule that the state should not consider the taking or retention of a child
17 from a person who has legal custody. California has created a special carve-out from its
18 general jurisdiction rule to allow the “taking of a child” from their custodial parent if
19 done to pursue gender transition procedures in California, while overlooking other
20 egregious violations that could warrant the “taking of a child”, such as sexual abuse. S.B.
21 107 § 7. This ignores the rightful jurisdiction of the child’s home state.

22 90. SB 107 “close[s] the door of [California’s] courts to the cause of action”
23 created by other states statutes in favor of its own policies. *Hughes v. Fetter*, 341 U.S.
24 609, 611-612 (1951). SB 107 unlawfully prohibits the enforcement of an order based
25 upon another state’s law authorizing a child to be removed from their parent because the
26 parent allowed the child to undergo gender transitioning surgery. S.B. 107 § 8. The bill
27 also prevents law enforcement from carrying out their duties by executing an out-of-state
28

1 warrant, and hospitals cannot respond to a subpoena requesting medical information of
2 a child receiving gender-affirming care. S.B. 107 §§ 9, 10.

3 91. California does not apply the same rules consistently, as SB 107 also
4 exempts law enforcement from its general duty to facilitate out-of-state warrants if the
5 warrant relates to gender-affirming care. *Id.*, § 9.

6 92. SB 107 also violates Full Faith and Credit Clause by preventing recognition
7 of laws and judgments of another state that authorizes a state agency to remove a child
8 from their parent or guardian based on the parent or guardian allowing their child to
9 receive gender-affirming health care or gender-affirming mental health care. S.B. 107 §
10 8. The Full Faith and Credit Clause requires California to recognize these laws and
11 judgments that were validly decreed in other states, including the removal of a child
12 based on the parent or guardian allowing their child to receive experimental gender-
13 affirming health care or gender-affirming mental health care. *See Finstuen v. Crutcher*
14 496 F.3d 1139, 1153 (10th Cir. 2007).

15 93. SB 107 further violates the Full Faith and Credit Clause by taking away
16 other states' rightful jurisdiction for any child visiting California who seeks—or claims
17 to be seeking—puberty blockers, cross-sex hormones, etc.

18 94. Specifically, Section 4 of the bill amended the California Family Code to
19 state that “the presence of a child” in California “for the purpose of obtaining gender-
20 affirming health care” is sufficient for California courts to exercise jurisdiction over
21 custody decisions for the child. S.B. 107 § 4. Section 8 of the bill prohibits the
22 enforcement of a court order based on another state's law authorizing a child to be
23 removed from their parent or guardian based on that parent or guardian allowing their
24 child to receive gender-affirming health care or gender-affirming mental health care. S.B.
25 107 § 8. These new paragraphs unjustifiably ignore the nationally established UCCJEA
26 and its determinations regarding the proper and rightful jurisdiction of the child's home
27 state.

VERIFICATION

I am an officer of Our Watch With Tim Thompson, a party to this action, and authorized to make this verification for and on its behalf, and I make this verification for that reason.

I am informed, believe, and on that ground allege that the matters stated in the foregoing **VERIFIED FIRST AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** are true. The matters stated in the foregoing document are true and based upon my own knowledge. I believe the matters based upon information and belief are also true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 13, 2023, at Murrieta, California.

OUR WATCH WITH TIM THOMPSON

By 
Timothy R Thompson (Apr 13, 2023 13:14 PDT)
Tim Thompson