

No. 23-5600

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

◆
L.W., et al.,
Plaintiffs/Appellees,
v.
JONATHAN SKRMETTI, et al.,
Defendants/Appellants.
◆

On Appeal from the U.S. District Court for the Middle District of Tennessee
Case No. 3:23-cv-376

**MOTION FOR LEAVE TO FILE *AMICUS* BRIEF IN SUPPORT OF APPELLANTS'
MOTION TO STAY INJUNCTION PENDING APPEAL BY ALABAMA, ARKANSAS,
ALASKA, FLORIDA, GEORGIA, IDAHO, IOWA, KENTUCKY, LOUISIANA,
MISSISSIPPI, MISSOURI, MONTANA, NEBRASKA, NORTH DAKOTA, OHIO, SOUTH
CAROLINA, UTAH, AND WEST VIRGINIA**

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CORPORATE DISCLOSURE STATEMENT

As governmental parties, amici are not required to file a certificate of interested persons. Fed. R. App. P. 26.1(a).

MOTION

Proposed amici curiae are the States of Alabama, Arkansas, Alaska, Florida, Georgia, Idaho, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, South Carolina, Utah, and West Virginia.

As sovereign states, proposed amici ordinarily need not move for leave to file an amicus brief in this Court. *See* Fed. R. App. P. 29(a)(2). However, given the procedural posture, out of an abundance of caution proposed amici seek the Court’s leave to file the attached amicus brief. The Court should grant this motion for three reasons.

First, proposed amici offer a unique perspective in this case. Like Tennessee, proposed amici are concerned by the recent surge of children suffering from gender dysphoria and other forms of gender-related psychological distress. And like Tennessee, proposed amici are concerned because these vulnerable children are suffering greatly and need help. The question is how to help them. The district court found “that the benefits of the medical procedures banned by SB1”—puberty blockers, cross-sex hormones, and surgical interventions—“are well-established.” Doc. 167 at 51. The problem is that the evidence says otherwise. That’s why healthcare authorities in several European countries have moved away from offering sex modification procedures to minors. And that’s why a growing number of States, including some

of the proposed amici, have done the same. Proposed amici thus write in support of Tennessee's law.

Second, no party will be prejudiced by the participation of the proposed amici. Appellants filed their emergency motion for stay on Friday, July 30. Proposed amici have offered their brief the very next business day—days before Appellees' response is due on July 6. And on June 30, proposed amici sought consent from the parties to file their brief; the State Defendants consent to the filing, the United States as Plaintiff-Intervenor does not oppose it, and the proposed amici have not heard back from the Private Plaintiffs.

Third, there is no good reason *not* to allow the proposed amici to file their brief. Indeed, courts generally “err on the side of granting leave” because “[i]f an amicus brief that turns out to be unhelpful is filed, the [court], after studying the case, will often be able to make that determination without much trouble and can then simply disregard the amicus brief. On the other hand, if a good brief is rejected, the [court] will be deprived of a resource that might have been of assistance.” *Neonatology Assocs., P.A. v. Comm’r*, 293 F.3d 128, 133 (3d Cir. 2002) (Alito, J.).

For these reasons, proposed amici respectfully request leave to file the attached amicus brief.

Dated: July 3, 2023

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CERTIFICATE OF COMPLIANCE

1. I certify that this brief complies with the type-volume limitations set forth in Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 427 words.

2. In addition, pursuant to Fed. R. App. P. 32(g)(1), this brief complies with the typeface and type style requirements of Fed. R. App. P. 32(a)(5) and (6) because it has been prepared in a proportionally spaced typeface using Microsoft Word for Office 365 in 14-point Times New Roman font.

Dated: July 3, 2023

s/ Edmund G. LaCour Jr.
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CERTIFICATE OF SERVICE

I certify that on July 3, 2023, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to any CM/ECF participants.

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