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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

ROBINSON, et al.,

Plaintiffs,

v.

LABRADOR in his official capacity as Attorney
General of the State of Idaho; et al.,

Defendants.

Case No. 1:24-cv-00306-DCN

**PLAINTIFFS' EMERGENCY
MOTION FOR TEMPORARY
RESTRAINING ORDER**

Plaintiffs by and through their undersigned counsel, respectfully move this Court pursuant to Federal Rule of Civil Procedure 65(b) for the entry of a temporary restraining order, effective May 31, 2026, enjoining Defendants from enforcing Idaho Code § 18-8901's prohibition on the

use of state funds for hormone therapy as applied to the certified class, pending the Court's ruling on Plaintiffs' Motion for Eighth Preliminary Injunction, Dkt. No. 187.

This motion is based on the attached memorandum of law in its support.

DATED: May 13, 2026

Respectfully submitted,

/s/Emily Myrei Croston

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**PLAINTIFFS' MEMORANDUM
IN SUPPORT OF EMERGENCY
MOTION FOR TEMPORARY
RESTRAINING ORDER**

Plaintiffs by and through their undersigned counsel, respectfully move this Court pursuant to Federal Rule of Civil Procedure 65(b) for the entry of a temporary restraining order ("TRO") enjoining Defendants from enforcing Idaho Code § 18-8901's prohibition on the use of state funds

for hormone therapy as applied to the certified class, pending the Court's ruling on Plaintiffs' Motion for Eighth Preliminary Injunction, Dkt. No. 187.

I. Introduction

This Court has now granted seven consecutive preliminary injunctions prohibiting enforcement of Idaho Code § 18-8901 (the "Act") as it applies to gender-affirming hormone therapy for the certified class of incarcerated persons diagnosed with gender dysphoria in the custody of the Idaho Department of Corrections ("IDOC"). The most recent of these injunctions was entered on February 27, 2026, and is set to expire on May 31, 2026. (Dkt. No. 186). Plaintiffs timely filed their Motion for Eighth Preliminary Injunction on April 6, 2026 (Dkt. No. 187) ("PI Eight Motion"). After Plaintiffs granted a one-and-a-half-week extension to respond, Defendants filed their response in opposition on May 8, 2026 (Dkt. No. 191).

The Seventh Preliminary Injunction will automatically expire on May 31, 2026, pursuant to the Prison Litigation Reform Act's ("PLRA") 90-day limitation. 18 U.S.C. § 3626(a)(2). Given the volume of Defendants' opposition to Plaintiffs' PI Eight Motion, which includes new expert material, Plaintiffs intend to seek an extension of time to reply in further support of their PI Eight Motion, to which Defendants have expressed their consent. If the Court grants Plaintiffs' forthcoming unopposed motion for an extension of time, Plaintiffs' reply brief in support of their PI Eight Motion will be due on June 5, 2026, by which time the Seventh Preliminary Injunction will have expired. In order to allow the Plaintiffs time to adequately respond to Defendants' opposition, and permit the Court sufficient time to rule on the pending PI Eight Motion without disrupting the status quo, Plaintiffs respectfully request that the Court enter a TRO, effective May 31, 2026, to prevent enforcement of the Act against class members during any interim period, up to and including 14 days, between the expiration of the Seventh Preliminary Injunction and the

Court's ruling on the pending PI Eight Motion. This Court has found that the Act's blanket prohibition on hormone therapy, "puts each inmate with gender dysphoria at substantial risk of irreparable harm because they are automatically precluded from seeking a recognized gender dysphoria treatment, even if it is determined to be medically necessary." Dkt. 95 at 10. The Court's prior issuance of seven preliminary injunctions based on these findings are sufficient to at least permit the parties to maintain the status quo for an additional two weeks while the Court can resolve Plaintiffs' PI Eight Motion.¹ Therefore, Plaintiffs respectfully request that the Court grant this Motion.

II. Legal Standard

As this Court has articulated in its seven prior orders on Plaintiffs' requests for preliminary injunctions and TROs, the movant must demonstrate: (1) a likelihood of success on the merits; (2) a likelihood of irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in the plaintiff's favor; and (4) that an injunction is in the public interest. *CTIA-The Wireless Ass'n v. City of Berkeley*, 854 F.3d 1105, 1114 (9th Cir. 2017) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). These factors are evaluated on a sliding scale, and relief is warranted where a plaintiff raises "serious questions" going to the merits and the balance of hardships tips sharply in the plaintiff's favor. *See Order Granting Seventh Preliminary Injunction* (Dkt. No. 186) at 4–5 (citing *Alliance for the Wild Rockies v. Petrick*, 68 F.4th 475, 490–91 (9th Cir. 2023)).

¹ This Court has previously recognized that the limited duration of a TRO allows the Court to make a "pre-preliminary" determination that is "even more removed from the merits and substance of the case[.]" to maintain the status quo while giving the Court sufficient time to engage in the ordinary level of review of a motion for a preliminary injunction. Dkt 13 at 2-4 (provisionally granting Plaintiffs' Motion for a TRO "to preserve the status quo," while the Court resolved Plaintiffs' First Motion for a Preliminary Injunction).

a. Likelihood of Success on the Merits

On seven consecutive occasions, this Court has concluded that Plaintiffs raise at minimum serious questions regarding the merits. *See* Dkt. Nos. 58, 96, 120, 137, 150, 180, 186. Most recently, this Court reaffirmed that “the existence of significant medical debate regarding the efficacy of the care barred by the Act creates a significant question as to the Act’s legality.” *See* Dkt. No. 186 at 5-6.

b. Irreparable Harm

This Court has consistently found “that the irreparable harm prong continues to ‘tip sharply’ in favor of Plaintiffs. *See* Dkt. No. 186 at 7 (quoting *Alliance for the Wild Rockies*, 68 F.4th at 490-91). If the Seventh Preliminary Injunction expires without successor relief, the Act’s criminal penalties, including imprisonment of one to fourteen years, will immediately compel IDOC’s medical providers to discontinue hormone therapy for all class members. This Court has previously noted that Plaintiffs presented evidence to show that “discontinuation of hormone therapy will lead to severe psychological distress . . . up to and including possible suicidal attempts,” which “strengthens their position under this factor.” Dkt. No. 120 at 7.

c. Balance of Equities and Public Interest

The third and fourth prong of the analysis, the balance of equities and consideration of the public interest, are merged where, as here, the government is the opposing party. *Porretti v. Dzurenda*, 11 F.4th 1037, 1047 (9th Cir. 2021). This Court has determined on seven occasions that this factor weighs in favor of Plaintiffs, and a brief TRO imposes no additional burden on Defendants beyond the status quo that has been in effect under all seven prior preliminary injunctions for nearly two full years, and what IDOC had already provided prior to the Act under its own policies.

d. PLRA Requirements

The requested TRO also satisfies the PLRA's needs-narrowness-intrusiveness requirements, 18 U.S.C. § 3626(a)(2), as noted by this Court in its Order, Dkt. No. 186 at 7-8. Its scope is identical to the seven prior injunctions: it enjoins only the enforcement of the Act as applied to class members' hormone therapy. As a result, it imposes no burdens on prison operations beyond, again, what IDOC had already provided prior to the Act under its own policies.

III. Conclusion

For the foregoing reasons, Plaintiffs respectfully request that this Court enter a TRO enjoining enforcement of the Act as applied to the class, effective upon expiration of the Seventh Preliminary Injunction on May 31, 2026, and remaining in effect until the Court rules on Plaintiffs' Motion for Eighth Preliminary Injunction, Dkt. No. 197.

DATED: May 13, 2026	Respectfully submitted,
	<u>/s/Emily Myrei Croston</u> Emily Myrei Croston (ISB No. 12389) ACLU of Idaho Foundation