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CLERK OF THE DOUGLAS COUNTY DISTRICT COURT
CASE NUMBER: DG-2025-CV-000241
PII COMPLIANT

IN THE SEVENTH JUDICIAL DISTRICT
DOUGLAS COUNTY DISTRICT COURT
CIVIL DEPARTMENT

LILY LOE, by and through her parent and next friend Lisa Loe; LISA LOE; RYAN ROE, by and through his parent and next friend Rebecca Roe; REBECCA ROE,

Plaintiffs,

v.

STATE OF KANSAS, *ex rel* KRIS KOBACH, Attorney General,

Defendant.

Case No. DG-2025-CV-000241
Div. No. 7

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF ITS MOTION FOR TEMPORARY INJUNCTION AND IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

Plaintiffs submit the recent order issued in *Soe v. Louisiana State Board of Medical Examiners*, Docket No. C-751-385 (La. 19th J. Dist. Ct. Feb. 4, 2026) ("*Soe v. Louisiana*"), denying Defendants' Motion for Summary Judgment, as supplemental authority in support of Plaintiffs' Motion for Temporary Injunction and in opposition to Defendant's Motion to Dismiss. The *Soe* order and referenced brief in opposition to summary judgment are attached hereto as Exhibits A and B, respectively. This order is relevant persuasive authority because it held that the Defendants' Motion for Summary Judgment—which focused almost entirely on legal argument based on case law interpreting the federal Constitution—did not warrant dismissal of Plaintiffs' claims challenging a law similar to S.B. 63 under Louisiana's *state* constitution.

The history of *Soe v. Louisiana* largely mirrors the facts underlying the present proceeding. In 2023, the Louisiana legislature introduced H.B. 648, which prohibited medical professionals from "knowingly engag[ing] in any act that attempts to alter a minor's appearance or to validate a minor's perception of his sex if the minor's perception is inconsistent with his sex," including the

prescription of puberty blockers and hormone therapy. H.B. 648, 2023 Leg. Reg. Sess. (La. 2023). Despite concerns of the State Attorney General regarding its constitutionality, the legislature overrode the veto of Governor John Bel Edwards, and Act 466 went into effect on January 1, 2024. *Compare* Ex. B at 4-6 *to* Petition, ¶¶ 61-68.

As is the case here, the Plaintiffs in *Soe v. Louisiana* are the parents of minor children, all of whom have been diagnosed with gender dysphoria and have been left unable to access medically indicated healthcare in their home state, causing severe harm to their wellbeing. The *Soe* Plaintiffs challenged Louisiana Act 466 under the Louisiana Constitution on the basis that the law deprives both the minor and parent Plaintiffs of their rights under the Louisiana Constitution, including the Louisiana Constitution's equal protection guarantee, equal dignity guarantee, protection of parents' fundamental right to direct their children's care and upbringing, and protection of children's fundamental right to decide whether to obtain medical treatment. Ex. B at 7. Defendants filed a motion for summary judgment on August 5, 2025, alleging that the Supreme Court's intervening decision in *United States v. Skrmetti*, 605 U.S. 495 (2025), entitled them to dismissal. Ex. B at 7. On January 15, the district court denied Defendants' motion. *See* Ex. A.

The *Soe* court denied Defendants' motion for summary judgment in part because the text of Louisiana's Equal Protection Clause, much like Section 1 of the Kansas Constitution, is broader than its federal corollary. *See* Ex. B at 15[1]; *see also* Pls. Resp. in Further Support of Mot. for Temp. Inj. at 6-7; Pls. Proposed Findings of Fact at ¶¶ 361-376. Moreover, the Louisiana Supreme Court has interpreted the Louisiana Constitution to "give the citizens of this state greater equal protection rights than are provided under the Fourteenth Amendment." Ex. B at 15-16 (citing *La. Associated*

[1] The Court adopted the Plaintiffs arguments in opposition to the motion for summary judgment. Ex. A at 2.

Gen. Contractors, Inc. v. State Through Div. of Admin., Off. of State Purchasing, 95-2105, p.14 (La. 3/8/96), 669 So. 2d 1185, 1196). The Kansas Constitution similarly grants Kansans rights that are greater than, and independent from, those granted by the federal constitution, making the *Soe* decision relevant persuasive authority here. *See* Pls. Proposed Findings of Fact at ¶¶ 367-376; *see also* Pls. Resp. in Opp. to Def's Mot. to Dismiss at 21-24.

Plaintiffs respectfully request that this Court expeditiously grant Plaintiffs' Motion for Temporary Injunction and deny Defendant's Motion to Dismiss.

Respectfully submitted, this 6th day of March, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2026, the above Plaintiffs' Response to Defendant's Notice of Supplemental Evidence was electronically filed with the Clerk of the Court using the Court's electronic filing system, which will send a notice of electronic filing to registered participants. A copy will also be provided to all counsel of record by PDF attachment to email.

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/s/ *Ryan F. Sullivan*
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Exhibit A

SUSIE SOE, ET AL

VERSUS

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS, ET AL

NO.: C-751-385 **SEC.:** 21 **DIV.:** L

19TH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

JUDGMENT

This matter came before this Honorable Court on the 15th day of January, 2026, pursuant to Defendants' *Motion for Summary Judgment* filed on the 05th of August, 2025, Plaintiffs' *Opposition* thereto filed on the 30th of December, 2025 and Defendants' *Reply* filed on the 09th of January, 2026.

PRESENT: **Nicholas J. Hite** (#34305) and **Deborah Mazer** (*pro hac vice*), and **Christopher Huberty** (*pro hac vice*) counsel for Susie Soe, et al., Plaintiffs, who were not present; and

Hunter N. Farrar (#38976) counsel for the Louisiana State Board of Medical Examiners, Louisiana State Board of Medical Examiners Board Members in their official capacity, and Attorney General of Louisiana, Defendants, all of whom were not present.

The Court, having considered the record of these proceedings including those pleadings and exhibits filed relative to this Motion, Opposition, and Reply and oral motion and argument of both Defendants' and Plaintiffs' counsel, rendered the following considered decree:

IT IS ORDERED, ADJUDGED, AND DECREED that Plaintiff's objections to Defendants' asserted undisputed material fact No. 1 are **SUSTAINED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's objections to Defendants' asserted undisputed material fact No. 2 are **SUSTAINED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's objections to Defendants' asserted undisputed material fact No. 3 are **SUSTAINED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's

objections to Defendants' asserted undisputed material fact No. 4 are **SUSTAINED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's objections to Defendants' asserted undisputed material fact No. 5 are **SUSTAINED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's objections to Defendants' asserted undisputed material fact No. 6 are **SUSTAINED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's objections to Defendants' asserted undisputed material fact No. 7 are **SUSTAINED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's objections to Defendants' asserted undisputed material fact No. 8 are **SUSTAINED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's objections to Defendants' asserted undisputed material fact No. 9 are **SUSTAINED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants' objections to the admission of Plaintiffs' Exhibits No. 7 and No. 8 are both **OVERRULED.**

~~**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the reasoning, holdings, and final judgment rendered in *United States v. Skrmetti*, 605 U.S. 495 (2025) are not determinative of the proceedings our outcome in this case.~~

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that there exist only genuine and disputed issues of material fact in this matter and thus Defendant's Motion for Summary Judgment is **DENIED** and this Court does adopt as its reasons for judgment all argument put forth by Plaintiffs in both their written pleadings and oral arguments.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all costs of these proceedings shall be cast on Defendants as the non-prevailing party.

JUDGMENT RENDERED in open court on January 15, 2026 in Baton Rouge, Louisiana

JUDGMENT READ AND SIGNED on this the 04 day of February, 2026 in Baton Rouge, Louisiana.

JUDGE
HONORABLE RONALD R. JOHNSON

I HEREBY CERTIFY THAT ON THIS DAY A COPY OF THE WRITTEN REASONS FOR JUDGMENT / JUDGMENT / ORDER / COMMISSIONER'S RECOMMENDATION WAS MAILED BY ME WITH SUFFICIENT POSTAGE AFFIXED.
SEE ATTACHED LETTER FOR LIST OF RECIPIENTS.

DONE AND MAILED ON February 06, 2026

DEPUTY CLERK OF COURT

PLEASE SEND NOTICE OF SIGNING TO ALL COUNSEL OF RECORD

SUSIE SOE, ET AL	**NO.:** C-751-385	**SEC.:** 21	**DIV.:** L
VERSUS	**19TH JUDICIAL DISTRICT COURT**		
	PARISH OF EAST BATON ROUGE		
LOUISIANA STATE BOARD OF MEDICAL EXAMINERS, ET AL	**STATE OF LOUISIANA**		

RULE 9.5 CERTIFICATE

I certify that I circulated this proposed judgment to Defendant counsel: by email to farrarh@ag.louisiana.gov; jonescar@ag.louisiana.gov; lagrouea@ag.louisiana.gov; pwilton@lsbme.la.gov; lsudduth@lsbme.la.gov on the 20th of January, 2026. I declare that no further delay in submission of this judgment is needed as:

__X_ no opposition was received; or

____ the following opposition was received from Amanda LaGroue and is attached hereto.

Certified this _28__ day of _January__, 2025.

/s/ Nicholas J. Hite

Nicholas J. Hite (#34305)
Counsel For Susie Soe, et al., Plaintiffs

Exhibit B

SUSIE SOE, et al.,	**DOCKET NO.: 751385**
Plaintiffs,	**DIVISION: 21**
v.	**19TH JUDICIAL DISTRICT COURT**
THE LOUISIANA STATE BOARD OF MEDICAL EXAMINERS, et al.,	**PARISH OF EAST BATON ROUGE**
Defendants.	**STATE OF LOUISIANA**

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OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

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NOW INTO COURT, through undersigned counsel, come Susie Soe, a minor, by and through her parents and guardians, Sandra and Stephen Soe; Sandra Soe; Stephen Soe; Daniel Doe, by and through his parents and guardians, Diana and David Doe; Diana Doe; David Doe; Max Moe, by and through his parent and guardian, Michael Moe; Michael Moe; Nia Noe, a minor, by and through her parent and guardian, Nancy Noe; Nancy Noe; Grant Goe, a minor, by and through his parents and guardians, Grace and Greg Goe; Grace Goe; and Greg Goe (collectively, "Plaintiffs"),[1] who respectfully submit this memorandum in opposition to Defendants' Motion for Summary Judgment:

I. Introduction

Throughout this case, Plaintiffs' request has been simple: to have their day in Court and litigate the merits of their claims under the Louisiana Constitution, which are based on their state constitutional rights to be free from discrimination based on sex or transgender status, to make decisions about medical care for their children, and to have the right to autonomy in making healthcare decisions based on the recommendations of their healthcare providers. Yet from the outset of this case, Defendants have attempted to evade the merits of Plaintiffs' claims. Now, after nearly two years of litigation, Defendants ask this Court to bypass any meaningful analysis of Plaintiffs' *state* constitutional claims and instead urge the Court to deny Plaintiffs their day in court based on an inapposite legal decision reached by a federal court in the context of a challenge to another state's law based on *federal* claims under the U.S. Constitution. But as this Court has already found, *United States v. Skrmetti*, 145 S. Ct. 1816 (2025), does not determine or resolve any of the state constitutional claims in this case. Further, any determination of the persuasive value of *Skrmetti* would be premature, as it would need to account for Plaintiffs' specific claims, the text of the challenged statute, and the factual record in this case, which includes a host of material facts that remain sharply in dispute. Defendants cannot squirm out of litigating this case with intellectually dishonest reasoning applied to the thin (at best) or non-existent (at worst) factual record upon which they rely.

Accordingly, the Court should not abide Defendants' transparent attempt to shoehorn this case into a more favorable standard of review for themselves on summary

[1] Each of the 13 Plaintiffs are participating in this litigation under pseudonyms to protect the privacy and safety of themselves and their families. (*See* Pls.' SAMF ¶ 83.)

judgment when scores of material facts remain for trial. Defendants' motion does not even mention the text of the Louisiana statute at issue in this case or its legislative record. It likewise fails to engage with multiple of Plaintiffs' constitutional claims and ignores the many material facts in the record of this case that contradict Defendants' conclusory position. Moreover, even if triable issues of fact were not replete in the record, Defendants have failed to demonstrate that they are entitled to judgment as a matter of law. All of this underscores the need for a trial so that the Court can engage in proper factfinding and apply the pertinent substantive Louisiana law to those facts. Plaintiffs therefore respectfully request that the Court deny Defendants' motion for summary judgment and allow this case to proceed to trial expeditiously.

II. Summary of Facts

Act 466 is the culmination of a yearslong effort by opponents of transgender people's ability to live as themselves to ban medical treatments that are necessary for transgender youth to live in a manner consistent with their identified sex—namely, medical treatments for these young persons' gender dysphoria. This effort dates back to at least the 2022 Regular Session, when, on May 31, 2022, the Louisiana House of Representatives passed House Resolution 158 ("HR 158"), which was authored by Representative Michael "Gabe" Firment and Representative Raymond "Ray" Garofalo. (*See* Pls.' SAMF ¶ 11 (citing H.R. 158, 2022 Leg., Reg. Sess. (La. 2022)).) Claiming without basis that "there is no evidence that long-term mental health outcomes are improved or that rates of suicide are reduced by hormonal or surgical intervention," and that "there [have] been a number of individuals who regret undergoing irreversible gender reassignment procedures," HR 158 "urge[d] and request[ed] the Louisiana Department of Health to conduct a study focused on the risks associated with gender reassignment procedures on minors . . . and to report its findings to certain legislative committees." (*See id.* ¶¶ 12, 15.)

In response, the Louisiana Department of Health conducted and published its *Study on Gender Reassignment Procedures for Minors* in March 2023 (the "LDH Report"). (*See id.* ¶ 16 (citing LA. DEP'T OF HEALTH, STUDY ON GENDER REASSIGNMENT PROCEDURES ON MINORS: RESPONSE TO HR 158 OF THE 2022 REGULAR SESSION (2023)).) Contrary to the claims in HR 158, the LDH Report concluded that medical treatment for gender dysphoria (also known as gender-affirming medical care) has critical *benefits* for youth diagnosed

with gender dysphoria. Indeed, the Report explicitly refuted the claims in HR 158, concluding that, for youth receiving gender-affirming medical care, "[p]sychiatric[] or mental health outcomes (e.g., depression, suicidal ideation) improved after treatment and when compared to individuals not treated." (*See id.* ¶ 17.)

The LDH Report's conclusions align with those reached by numerous medical societies and the body of evidence-based medical literature more generally, as set forth in Plaintiffs' uncontroverted expert reports.[2] (*See id.* ¶ 176 (citing Mabel Report) (explaining that there is "alignment between relevant medical societies, clinical practice guidelines, and nonpartisan evaluators of existing research").) The American Medical Association, the American Academy of Pediatrics, the American Academy of Child and Adolescent Psychiatry, the American Psychological Association, and the American Psychiatric Association all "recognize that gender-affirming medical care is safe and effective." (*See id.* ¶¶ 172–75 (citing Janssen Report).) Further, the "overwhelming conclusion from the available evidence is that gender affirming care for transgender youth including [puberty blockers] and [hormone treatments] leads to improvements in wellbeing, mental health, and suicidal thoughts." (*See id.* ¶ 273 (citing Millington Report).) This conclusion has been informed by peer-reviewed research, longitudinal studies, and clinical experience. (*See id.* ¶ 274 (citing Shumer Report).) Indeed, notwithstanding Defendants' unsupported assertions to the contrary, gender-affirming medical treatments "have the same or a similar level of evidentiary support as many other well-established treatment protocols in psychiatry—and other disciplines of medicine." (*See id.* ¶ 275 (citing Janssen Report).) In other words, the *uncontroverted* record in this case establishes beyond dispute that gender-affirming medical care is essential, effective, and safe evidence-based healthcare to treat a young person's gender dysphoria. Defendants have introduced *no* evidence in the record to the contrary.[3]

[2] Plaintiffs have engaged five expert witnesses in connection with this litigation, each of whom authored expert reports, which were served on Defendants on September 11, 2025. (*See* Pls.' SAMF ¶¶ 111–12.) Plaintiffs' experts are Dr. Jennifer Creedon, Dr. Aron Janssen, Ms. Hilary Mabel, Dr. Kate Millington, and Dr. Daniel Shumer. (*See id.* ¶¶ 113–46.)

[3] Nor do Defendants have any evidence that they *could* submit on this point. Defendants did not furnish any expert reports of their own, and Defendants' counsel previously communicated to Plaintiffs' counsel that they "do not plan on deposing any of [Plaintiffs'] experts." (*See* Pls.' SAMF ¶ 147 (citing email from Mr. Hunter Farrar to Ms. Deborah Mazer (Oct. 20, 2025, 9:17 AM ET)).).

In addition to reviewing the literature on gender-affirming medical care more broadly, the LDH Report also surveyed the landscape of gender-affirming medical care in Louisiana, demonstrating that the assertion in HR 158 that there has been a "dramatic increase" in the prescription and provision of gender-affirming medical care did not bear out in reality. (*See id.* ¶ 14 (citing H.R. 158 at 2, 2022 Leg., Reg. Sess. (La. 2022)).) Surveying Louisiana Medicaid data, the LDH Report noted that, on average, only 14.6% of minors diagnosed with gender dysphoria were prescribed puberty blockers or gender-affirming hormones. (*See id.* ¶¶ 18, 227, 255 (citing LDH Report).) The Report also stated that "[z]ero surgeries [were] ever performed on minors" between 2017 and 2021. (*See id.* ¶¶ 19–20, 229 (citing LDH Report).) And although HR 158 claimed that a "number of individuals" have expressed regret after receiving gender-affirming medical care, the LDH Report concluded that "[r]egret or retransition in youth is rare (1% or less) in large cohorts with formal diagnostic procedures after diagnosis of [gender dysphoria] and start of treatment." (*See id.* ¶ 21 (citing LDH Report); *id.* ¶ 15 (citing H.R. 158 at 3, 2022 Leg., Reg. Sess. (La. 2022)).)

Despite being presented with evidence that gender-affirming medical care is both safe and effective, the Legislature cast aside the fact-based and well-researched conclusions in the LDH Report and pressed forward with its efforts to ban medically indicated care for a small group of minor adolescents in Louisiana. On March 31, 2023, less than a month after the publication of the LDH Report, Representative Firment pre-filed House Bill 463 ("HB 463") of the 2023 Regular Session. (*See id.* ¶ 23 (citing H.B. 463, 2023 Leg., Reg. Sess. (La. 2023)).) Titled, the "Save Adolescents from Experimentation Act," HB 463 sought to "[p]rohibit[] certain procedures to alter the sex of a minor child." (*See id.* ¶¶ 24–27.)

The existence of HB 463 was short lived. (*See id.* ¶¶ 28–36.) Just over a month after pre-filing the bill, Representative Firment introduced House Bill 648, titled the "Stop Harming Our Kids Act," as a substitute bill for HB 463. (*See id.* ¶¶ 37–38 (citing H.B. 648 at 1, 2023 Leg., Reg. Sess. (La. 2023)).) Like HB 463, HB 648 sought to "[p]rohibit[] certain procedures to alter the sex of a minor child," and specifically prohibited medical professionals from "knowingly engag[ing] in any act that attempts to alter a minor's

appearance or to validate a minor's perception of his sex if the minor's perception is inconsistent with his sex." (*See id.* ¶¶ 39–40, 44.)

While HB 648 was making its way through the legislature, the Louisiana Attorney General's Office—one of the agencies now defending the constitutionality of Act 466—was internally raising concerns about the bill's constitutionality. Analyses prepared by lawyers for the Attorney General's Office labeled HB 648 as a "concern." (*See id.* ¶¶ 41–42 (citing L. Sudduth Legislative Confidential Bill Analysis; J. Donahue Legislative Confidential Bill Analysis).) And a further analysis conducted by Mr. Terrence "Joe" Donahue concluded that the "proposed statutory language raises significant constitutional questions that increase the likelihood of a successful constitutional challenge." (*See id.* ¶¶ 46–52 (citing J. Donahue Legislative Confidential Bill Analysis).) That analysis explained that "the contemplated statutes would appear to be both vague (i.e. proscription of 'any act that attempts to validate a minor's perception…') and overly broad (i.e. explicitly applies to security guards and other individuals incapable of facilitating surgical or pharmaceutical interventions)." (*See id.* ¶ 48.) It also noted that "[i]mplementation of the law's provisions would also likely create conflicts with existing standards of conduct imposed upon certain professions, leaving practitioners with no clear means of compliance and potentially subjecting them to additional liability." (*See id.* ¶ 51.)

Yet while the Attorney General's Office was privately expressing doubts about the constitutionality of HB 648, (*see id.* ¶¶ 41–52), the Legislature pressed ahead. On May 16, 2023, the Louisiana House of Representatives passed HB 648. (*See id.* ¶ 53 (citing Final Passage Roll Call, H.B. 648, 2023 Leg., H.R. Reg. Sess. (La. 2023)).) On June 5, 2023, the Louisiana Senate likewise passed HB 648. (*See id.* ¶ 54 (citing Final Passage Roll Call, H.B. 648, 2023 Leg., S. Reg. Sess. (La. 2023)).) The bill was sent to then-Governor John Bel Edwards for his signature on June 9, 2023. (*See id.* ¶ 55 (citing HB 648 Status Report (Jan. 14, 2025)).)

Once the bill reached the Governor's desk, it encountered a significant—albeit temporary—roadblock. On June 29, 2023, Governor Edwards vetoed the bill and sent a six-page letter to the Legislature outlining the bill's many deficiencies. (*See id.* ¶ 56 (citing Governor's Veto Message).) The opening paragraph of this letter stands in contrast to the position Defendants have taken before this Court:

> This bill is entitled the "Stop Harming Our Kids Act," which is ironic because that is precisely what it does. This bill denies healthcare to a very small, unique and vulnerable group of children. It forces children currently stabilized on medication to treat a legitimate healthcare diagnosis to stop taking it. It threatens the professional licensure of the limited number of specialists who treat the healthcare needs of these children. It takes away parental rights to work with a physician to make important healthcare decisions for children experiencing a gender crisis that could quite literally save their lives. And, without doubt, it is part of a targeted assault on children that the bill itself deems not "normal."

(*See id.* ¶ 57.) Yet despite this scathing assessment of the bill, (*see id.* ¶¶ 58–60), or perhaps because of it and the pressure of partisan politics, the Legislature overrode Governor Edwards' veto on July 18, 2023. (*See id.* ¶¶ 61–62.) HB 648 thereafter became Act 466 and went into effect on January 1, 2024. (*See id.* ¶¶ 63–64.)

Upon becoming effective, Act 466 allowed healthcare professionals to "systematically reduce[] and discontinue[]" the banned treatments if they "determine[d] and document[ed] that immediately terminating the minor's use of the drug or hormone would cause harm to the minor." (*See id.* ¶ 69.) Act 466 further purports to override La. R.S. § 40:1079.1, which allows minors to consent to healthcare, with respect to the banned treatments, and it mandates the revocation of the licensure of any healthcare provider found to violate the Act for a period of at least two years. (*See id.* ¶¶ 70–74.)

Since Act 466 went into effect, transgender minors across Louisiana, including the minor Plaintiffs in this suit, have experienced harm on account of being unable to access medically-indicated healthcare interventions. Plaintiffs Susie Soe, Daniel Doe, Max Moe, Nia Noe, and Grant Goe (collectively, the "Minor Plaintiffs") have all been diagnosed with gender dysphoria. (Pet. ¶¶ 15–20; Pls.' Opp'n to Defs.' Declinatory Exception at 3.) They all have been unable to access the proper care to treat their gender dysphoria in Louisiana since Act 466 became effective. (*See* Pls.' SAMF ¶¶ 322–25, 363, 399–400, 422–24, 467–68.) Likewise, following the enactment of Act 466, Plaintiffs Sandra Soe, Stephen Soe, Diana Doe, David Doe, Michael Moe, Nancy Noe, Grace Goe, and Greg Goe (collectively, the "Parent Plaintiffs") have been unable to fully direct their children's medical care for gender dysphoria. (*See id.* ¶¶ 295–483.) As a result, the Minor Plaintiffs have experienced severe psychological distress, including depression and suicidal ideation, eviscerating years of treatment progress before the ban. (*See id.* ¶¶ 326–31, 363, 400, 424.)

III. Procedural History

On January 8, 2024, eight days after Act 466 went into effect, Plaintiffs filed this suit.[4] Plaintiffs' Petition challenges the constitutionality of Act 466 on four grounds under the Louisiana Constitution. Plaintiffs allege that Act 466 (i) deprives the Parent Plaintiffs of their right to parental autonomy; (ii) deprives the Minor Plaintiffs of their right to medical autonomy; (iii) unlawfully discriminates on the basis of sex; and (iv) unlawfully discriminates on the basis of transgender status. (Pet. ¶¶ 235–311.) These claims arise under Article I, Sections, 2, 3, and 5 of the Louisiana Constitution.[5] (*Id.* ¶¶ 235–311.) As the Petition makes clear, Plaintiffs "are not asserting or attempting to assert any claim under the United States Constitution or any federal statute." (*Id.* ¶ 234.)

In the nearly two years since Plaintiffs filed their Petition, Defendants have made no serious effort to litigate this case. Indeed, Defendants have actively sought to avoid participating in the case, filing a motion to stay all proceedings on the ground that the case "involves the same issues as" *United States v. Skrmetti*, a case decided by the U.S. Supreme Court in June 2025 that involved a *federal* challenge under the U.S. Constitution to a distinct Tennessee law banning gender-affirming medical care for minors. (*See* Defs.' Mot. for Stay of Proceedings at 2.) The Court addressed—and rejected—this argument almost a year ago, holding that this case involves "different law and different standards" than *Skrmetti*. (Mot. for Stay of Proceedings Hr'g Tr. at 17:2–5; Pls.' Opp'n to Defs.' Req. for Stay at 6.)

Notwithstanding this Court's prior decision, on August 5, 2025, Defendants filed a motion for summary judgment and accompanying memorandum of law arguing that, "in light of *Skrmetti*," Defendants "are entitled to judgment dismissing plaintiffs' demands as a matter of law." (Mem. in Supp. of Mot. for Summary J. at 2 ("Defs.' Mem.").) With their motion, Defendants filed a Statement of Undisputed Material Facts, which included

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[4] Defendants' Statement of Undisputed Facts avers that "[o]n July 29, 2024, Plaintiffs filed suit challenging the constitutionality of Act 466." But that is the date that the case was docketed in this Court, not the date that Plaintiffs initially filed suit in Orleans Parish. (*See* Pls.' Resp. to Defs.' SUMF ¶ 6.) Nor is this the first time that Defendants have misidentified the date that Plaintiffs filed their Petition. (*See, e.g.*, Opp. to Mot. to Compel Answers to Disc. at 1 ("On July 29, 2024, Plaintiffs filed a suit challenging the constitutionality of Act 466 . . .").)

[5] Defendants' memorandum also addresses Article I, Section 1 of the Louisiana Constitution and asserts that "Plaintiffs can hardly point to this provision as evidence that the challenged statutes violate the [Louisiana] Constitution." (Defs.' Mem. at 9.) But none of Plaintiffs' claims are premised on Article I, Section 1. Defendants thus appear to have invented a claim in Plaintiffs' Petition, while at the same time failing to adequately address the claims that actually are in the Petition.

just nine so-called "facts" to support Defendants' claim that they are entitled to summary judgment. (*See* Statement of Undisputed Material Facts at 1–2 ("Defs.' SUMF").)

The Court originally scheduled a hearing on Defendants' summary judgment motion for October 30, 2025. (Unopposed Mot. to Continue Hr'g on Defs.' Mot. for Summ. J. ¶ 1.) On August 14, 2025, however, the Court informed the Parties that it would not entertain any summary judgment motions until after the close of fact discovery. (*Id.* ¶ 2.) Accordingly, on September 10, 2025, Plaintiffs' Counsel conferred with Counsel for Defendants regarding the possibility of continuing the hearing on Defendants' summary judgment motion until after the close of fact discovery. (*Id.* ¶ 3.) On September 17, 2025, after receiving Defendants' consent, Plaintiffs filed an unopposed motion to continue the summary judgment hearing until the conclusion of all discovery, including expert discovery. (*Id.*) The Court subsequently rescheduled the hearing for January 15, 2026. (Order on Unopposed Mot. to Continue Hr'g on Defs.' Mot. for Summ. J.)

IV. Summary Judgment Standard

Summary judgment is proper only when, "[a]fter an opportunity for adequate discovery," the "motion, memorandum, and supporting documents show that there is no genuine issue as to material fact and that the mover is entitled to judgment as a matter of law." La. Code Civ. Proc. art. 966(A)(3). In determining whether there is a genuine issue of material fact, the Court may not rely on "conclusions of law" or "ultimate or conclusory facts." *Labarre v. Occidental Chem. Co.*, 2017-1370, p. 16 (La. App. 1st Cir. 6/4/18), 251 So. 3d 1092, 1102, *writ denied*, 2018-1380 (La. 12/3/18), 257 So. 3d 196 (citing *Thompson v. S. Cent. Bell Tel. Co.*, 411 So. 2d 26, 28 (La. 1982)). The Court likewise may not consider the weight of the evidence or assess the credibility of any witnesses or facts. *Collins v. Franciscan Missionaries of Our Lady Health Sys., Inc.*, 2019-0577, p. 4 (La. App. 1st Cir. 2/21/20), 298 So. 3d 191, 194, *writ denied*, 2020-0480 (La. 6/22/20), 297 So. 3d 773. Instead, the Court must simply look at the facts and deny the motion if it identifies a material factual issue on which reasonable persons could disagree. *Hines v. Garrett*, 2004-0806, p. 1 (La. 6/25/04), 876 So. 2d 764, 765–66.

Under Louisiana law, only certain types of documents may be submitted in support of a motion for summary judgment. Proper documentary evidence consists of "pleadings, memoranda, affidavits, depositions, answers to interrogatories, certified medical records,

certified copies of public documents or public records, certified copies of insurance policies, authentic acts, private acts duly acknowledged, promissory notes and assignments thereof, written stipulations, and admissions." La. Code Civ. Proc. art. 966(A)(4). Submission of any other type of document is prohibited, unless the document is "properly authenticated by an affidavit or deposition."[6] *Id.* at cmt. (c).

Pursuant to the Nineteenth Judicial District's Local Rules, a motion for summary judgment must also be accompanied by: (i) "a list of the essential legal elements necessary for the mover to be entitled to judgment"; (ii) "a list of the uncontested facts which prove those elements"; and (iii) "as to each fact [], a copy of the document or portion thereof wherein is contained proof of the fact." Nineteenth Jud. Dist. R. 9.14. These rules "have the effect of law both upon the judge and the litigants." *Trahan v. Petroleum Cas. Co.*, 250 La. 949, 956, 200 So. 2d 6, 8 (1967); *see also* La. Code Civ. Proc. art. 193(A) (allowing courts to adopt local rules "that are not contrary to the rules provided by law").

V. Argument

Notwithstanding that Defendants' Motion for Summary Judgment is nothing more than a transparent attempt to relitigate resolved issues and avoid Defendants' obligation to litigate the constitutionality of Act 466 under *Louisiana law* and the factual record in this case, the Court can deny Defendants' motion without reaching the merits. Indeed, Defendants have failed to comply with both the Louisiana Code of Civil Procedure and the Nineteenth Judicial District's Local Rules, and as a result, Defendants have failed to properly submit any evidence for the Court's consideration. Thus, the Court can deny summary judgment because there are no facts in the record that would warrant it.

Even if the Court does reach the merits, the result should be the same. Resolving this case solely by reference to *Skrmetti*, as Defendants ask the Court to do, would contravene longstanding Louisiana Supreme Court precedent instructing that the federal equal protection analysis does not govern claims under the Louisiana Constitution because the Louisiana Constitution provides for greater protection than the U.S. Constitution. And when the correct analysis is applied, there is a genuine dispute of material fact as to whether

[6] For this reason, the Court may properly consider Plaintiffs' expert reports, which have been presented to the Court in the form of a notarized affidavit. *See* La. Code Civ. Proc. art. 967(A) (allowing the submission of expert affidavits stating "such experts' opinions on the facts as would be admissible in evidence under Louisiana Code of Evidence Article 702"); *see also Indep. Fire Ins. Co. v. Sunbeam Corp.*, 1999-2181, p. 1 (La. 2/29/00), 755 So. 2d 226, 228 (reversing summary judgment for failure to consider expert opinion evidence).

Act 466 classifies based on sex and transgender status, and whether Act 466 can pass any level of constitutional scrutiny.

Further, Defendants' *Skrmetti* argument is even less apt with respect to Plaintiffs' remaining claims, as *Skrmetti* only addressed equal protection claims. Yet it is unsurprising that Defendants do not seriously argue that they are entitled to summary judgment on these claims beyond referring to *Skrmetti*, as the record confirms that they are not. Instead, Plaintiffs are entitled to proceed to trial because a reasonable factfinder could conclude that Act 466 violates the right of the Parent Plaintiffs to direct the medical care of their children and the right of the Minor Plaintiffs to bodily autonomy. Thus, Defendants' motion must be denied in its entirety.

a. Defendants' Motion Must Be Denied Because Defendants Have Failed to Properly Submit Any Evidence for the Court's Consideration.

As an initial matter, the Court can dispose of Defendants' motion without reaching the merits of their argument that *Skrmetti* determines the outcome of this case, because Defendants have not properly submitted *any* facts for the Court's consideration. Indeed, Defendants have failed to comply with both the Louisiana Code of Civil Procedure, by relying on documents that are not proper evidence at summary judgment, and the Nineteenth Judicial District's Local Rules, by failing to attach documentary support for any of their asserted "facts." Moreover, Defendants disguise legal conclusions as facts, notwithstanding black-letter Louisiana law to the contrary. Any one of these deficiencies would prevent the Court from granting Defendants' motion. *See, e.g.*, *Bonano v. Docar Sales, Inc.*, 2024-0195, p. 14 (La. App. 1st Cir. 10/22/24), 405 So. 3d 886, 898, *writ denied*, 2025-0011 (La. 4/1/25), 404 So. 3d 653 (reversing summary judgment where "there was no admissible summary judgment evidence before the trial court"); *Ricketson v. McKenzie*, 2023-0314, p. 12 (La. App. 1st Cir. 10/4/23), 380 So. 3d 1, 7 (reversing summary judgment where the movant "failed to raise any argument or file any evidence in support of its motion"). Together, they are fatal.

i. Defendants' Statement of Facts Fails to Comply with Louisiana Code of Civil Procedure Article 966.

The Court should deny Defendants' motion for the simple reason that Defendants have not presented any facts whatsoever, let alone any facts that would justify summary judgment, because their motion fails to cite any documents that are competent evidence on

summary judgment under the Louisiana Code of Civil Procedure. Article 966 is clear that only certain types of documents can be considered at summary judgment, and the Code "intentionally does not allow the filing of documents that are not included in the exclusive list." La. Code Civ. Proc. art. 966(A)(4)(a); *id.* at cmt. (c). Yet Defendants flout the plain language of the Code by only citing three types of documents, none of which are included in the "exclusive" list of documents outlined in Article 966. (*See* Defs.' SUMF ¶¶ 1–8 (outlining eight "facts" supported solely by citations to webpages, cases, and statutes).)

This is particularly egregious given Defendants' reliance on *Skrmetti* to support factual assertions regarding the safety and efficacy of gender-affirming medical care to treat a transgender adolescent's gender dysphoria. (*See* Defs.' SUMF ¶¶ 7–8 (reproducing *Skrmetti*'s discussion of a report commissioned by England's National Health Service rather than citing the report itself, which is not included as evidence).) Rather than citing certified copies of public documents, which plainly would be permissible under Article 966, Defendants go out of their way to cite improper sources. *See* La. Code Civ. Proc. art. 966(A)(4)(a) (listing "certified copies of public documents" as proper evidence at summary judgment). In doing so, Defendants deprive both Plaintiffs and the Court of the chance to review the actual documents that form the basis of Defendants' factual assertions.

Given Defendants' blatant failure to comply with the plain language of Article 966, the Court must disregard all of Defendants' asserted facts and deny Defendants' motion on the ground that there are no properly supported facts in the record that would warrant judgment as a matter of law. *See Bonano*, 405 So. 3d at 898.

ii. Defendants' Statement of Facts Fails to Comply with Nineteenth Judicial District Rule 9.14.

Even if Defendants had cited proper evidence to support their asserted facts (which they have not), these facts still are not properly before the Court because Defendants' motion is devoid of any documentary support for the factual assertions in their Statement of Undisputed Material Facts. Under Rule 9.14 of the Nineteenth Judicial District Court's Local Rules, every fact necessary for the Court to grant summary judgment must be supported by "a copy of the document or portion thereof where is contained proof of the fact." Nineteenth Judicial Dist. R. 9.14. Notwithstanding that Defendants cite Rule 9.14 in their memorandum, they make no attempt to comply with this requirement. (*See* Defs.' Mem. at 3.) Instead, Defendants support their facts through citations to hyperlinks and

legal authorities that are not appended to their summary judgment materials. (*See* Pls.' Resp. to Defs.' SUMF ¶¶ 1–5, 7–9.) Such a practice fails to comport with the plain language of Rule 9.14, which requires Defendants to submit a copy of the documents supporting their facts.

Defendants have also failed to comply with Rule 9.14 for the independent reason that their memorandum of law references material facts not included in their Statement of Undisputed Material Facts, and for which Defendants provide no evidentiary support whatsoever. (*See, e.g.*, Defs.' Mem. at 2 (asserting that Plaintiffs "want to seek treatment to change their sex at birth"); *id.* at 4 (asserting that Act 466 prohibits "healthcare providers from administering treatment to minors that irreversibly arrests or stimulates their natural maturation process so as to alter the biological sex of the child"); *id.* at 8 (asserting that Act 466 "is designed to protect minors from life-altering medical treatment that is irrevocable and irreparable").) Without proper evidentiary support, the Court has no basis from which to adjudicate a summary judgment motion. *See, e.g.*, *Hemphill v. Smith*, 2020 0795, p. 17 (La. App. 1st Cir. 7/22/21), 328 So. 3d 1224, 1235, *writ denied*, 21-01286 (La. 11/17/21), 327 So. 3d 997 (reversing summary judgment where the movant failed to submit any documentation to support its asserted facts, on the ground that "[w]ithout the appropriate supporting documentation in the record, there is nothing for [the] court to review"). Defendants' failure to attach any documentary evidence to their motion, as required by the Nineteenth Judicial District's Local Rules, is an independent reason for the Court to deny Defendants' motion on the ground that *Defendants* have presented no properly supported facts in the Summary Judgment record.

iii. Many of Defendants' Purported "Facts" Are Legal Conclusions, Which Cannot Supplant Defendants' Evidentiary Burden.

Even if the Court were to look past Defendants' plain failure to comply with Article 966 of the Code of Civil Procedure and the Nineteenth Judicial District's Local Rules, it still must disregard many of Defendants asserted "facts," because they are not facts at all. Instead, they are legal conclusions that Defendants disguise as facts, notwithstanding that it is well settled that legal conclusions are not appropriate substitutes for facts at the summary judgment stage. *See Labarre*, 251 So. 3d at 1102 ("We . . . note that ultimate or

conclusory facts or conclusions of law are not to be utilized on a summary judgment motion.").

In particular, Defendants assert in their Statement of Undisputed Material Facts that Louisiana "has an interest in medical regulation, like the ones in Act 466," and that Louisiana "has a compelling interest in the health, safety, psychological well-being and welfare of minors." (Defs.' SUMF ¶¶ 3–4.) But whether a state interest is important or "compelling" is a legal determination that must be made by the Court. *See, e.g., In re Warner*, 05-1303, p. 44 (La. 4/17/09), 21 So. 3d 218, 250 (explaining that courts must determine "whether the record effectively demonstrates that the asserted interest qualifies as a 'compelling' one as a matter of law").

Likewise, Defendants claim that Louisiana "has an interest in medical regulation, like the ones in Act 466," although they then disavow this point in their memorandum of law. (*Compare* Defs.' SUMF ¶ 3, *with* Defs.' Mem. at 7 (asserting that "the welfare of minors is the sole and only objective of the statute"); *see also* Pls.' Resp. to Defs.' SUMF ¶¶ 3–6 (citing LAAG Art. 1442 Dep. Tr.) (representing that the *only* state interest furthered by Act 466 is "[t]he protection of minors").) But while Defendants can make assertions regarding the state interest furthered by Act 466, it is well-settled that such assertions must be supported by evidence. *See Warner*, 21 So. 3d at 250 ("The state's role . . . is to assert an interest served by the regulation at issue *and to submit evidence* to establish the compelling nature of the interest." (emphasis added)). Yet Defendants have provided no evidence to support the unspecified harms that they claim are associated with the treatments banned by Act 466 and, in fact, have admitted that they do not know what those harms are. (*See* Pls.' Resp. to Defs.' SUMF ¶¶ 3–4 (citing LAAG Art. 1442 Dep. Tr.).) Accordingly, the Court must, at the very least, reject Defendants' attempt to avoid litigating this case on the merits by repackaging their preferred legal conclusions as "facts." *See Warner*, 21 So. 3d at 250 (explaining that "[m]ere speculation of harm does not constitute a compelling state interest" (alteration in original) (quoting *Consol. Edison Co. of N.Y. v. Pub. Serv. Comm'n*, 447 U.S. 530, 543 (1980)).

b. The Court Should Deny Defendants' Motion for Summary Judgment Because Defendants Have Failed to Demonstrate that They Are Entitled to Judgment as a Matter of Law.

Given the many procedural deficiencies outlined above, the Court can decide the instant motion without reaching the substance of Defendants' arguments. But if the Court is inclined to address the merits, it should likewise conclude that Defendants' arguments fail on the merits.

Defendants' reliance on *Skrmetti*, and their failure to engage with the text of Act 466 or the facts of *this* case, are a transparent attempt to avoid judicial scrutiny of Plaintiffs' *state law* claims and Defendants' obligation to defend the constitutionality of Act 466. Applying the correct constitutional analysis under Louisiana law, Defendants are not entitled to judgment as a matter of law on any of Plaintiffs' claims. Indeed, Defendants do not even address many of Plaintiffs' claims, making summary judgment inappropriate on those counts. And even if Defendants had addressed those claims in any meaningful way, Plaintiffs have presented more than enough evidence to create a genuine issue of material fact. Summary judgment must be denied, and all of Plaintiffs' claims must therefore proceed to trial.

i. Defendants Are Not Entitled to Judgment as a Matter of Law on Plaintiffs' Equal Protection Claims.

Defendants' argument that they are entitled to summary judgment on Plaintiffs' equal protection claims begins—and ends—with *Skrmetti*. But *Skrmetti* is a different case, in which a *different* court applied a *different* analysis to assess an equal protection challenge to a *different* statute based on a *different* constitution. Simply put, this case is not *Skrmetti*, and the Court cannot copy and paste the U.S. Supreme Court's *Skrmetti* decision to resolve this case, as Defendants ask. Doing so would violate the Louisiana Supreme Court's longstanding instruction that the federal equal protection analysis does not govern claims under the Louisiana Constitution, which provides greater protections than the Fourteenth Amendment.

Once Defendants' intellectually dishonest argument that this is the same case as *Skrmetti* is properly set aside, the remainder of the motion offers no basis for summary judgment. Defendants make no attempt to reference the actual statutory language at issue, let alone discuss how the Court should apply the correct analysis under the Louisiana Constitution. And for good reason. The evidence in the record plainly demonstrates that

there is a genuine issue of material fact as to whether Act 466 violates the Equal Protection Clause of the Louisiana Constitution, a fact that the Louisiana Attorney General's Office itself recognized prior to the enactment of the law.

Under Louisiana law, the basis on which a statute classifies must be determined by reference to the statutory text. Here, the text of Act 466 plainly restricts access to certain medical treatments based on sex and transgender status, meaning that the statute classifies on these bases. And as the evidence in the record creates a genuine dispute of material fact as to whether Act 466 can pass the applicable level of constitutional scrutiny for either of these classifications, Defendants' motion for summary judgment on Plaintiffs' equal protection claims must be denied.

1. *Skrmetti* Does Not Resolve Plaintiffs' Equal Protection Claims Because the Louisiana Constitution Provides Greater Protection Than Its Federal Counterpart.

While Defendants insist that they are "entitled to summary judgment as a matter of law in light of the *Skrmetti* decision," (Defs.' Mem. at 2), they make no effort to grapple with critical differences between *Skrmetti* and this case. *Skrmetti* involved a challenge to Tennessee's SB1, which "ban[s] the use of certain medical procedures for treating transgender minors," under the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. *Skrmetti*, 145 S. Ct. at 505–06. Setting aside for the moment the fact that SB1 and Act 466 are *different* laws with *different* legislative histories, the Equal Protection Clause of the Fourteenth Amendment is not the same as the Equal Protection Clause of the Louisiana Constitution. *Compare* U.S. Const. amend. XIV, § 1 (commanding that no state shall "deny to any person within its jurisdiction the equal protection of the laws"), *with* La. Const. art. I, § 3 ("No person shall be denied the equal protection of the laws. No law shall discriminate against a person because of race or religious ideas, beliefs, or affiliations. No law shall arbitrarily, capriciously, or unreasonably discriminate against a person because of birth, age, sex, culture, physical condition, or political ideas or affiliations.").

This distinction matters. As the Louisiana Supreme Court has repeatedly explained, "the express language adopted" in the Louisiana Equal Protection Clause shows that it "was intended to give the citizens of this state greater equal protection rights than are provided under the Fourteenth Amendment." *La. Associated Gen. Contractors, Inc. v.*

State Through Div. of Admin., Off. of State Purchasing, 95-2105, p. 14 (La. 3/8/96), 669 So. 2d 1185, 1196; *see also State v. Granger*, 07-2285, p. 10 (La. 5/21/08), 982 So. 2d 779, 787 ("[The] federal standard of equal protection analysis provides a minimal level of protection, [and] states can afford greater protection than it requires. Louisiana has done just that." (citations omitted)); Derek Warden, *Disability Rights and the Louisiana Constitution*, 48 HASTINGS CONST. L.Q. 578, 578–79, 586 n.46 (2021) (affirming that "the Louisiana Constitution goes further in the protection of individual rights than does the United States Constitution"). And the history of the Louisiana Equal Protection Clause supports this interpretation of its text. *See Sibley v. Bd. of Supervisors of La. State Univ.*, 477 So. 2d 1094, 1108 (La. 1985) (explaining that, during the drafting of the Louisiana Constitution, "a major effort to reduce the article's level of protection to that afforded by the Fourteenth Amendment was decisively rejected").

Because the Louisiana Equal Protection Clause provides greater protection than the Fourteenth Amendment, the Louisiana Supreme Court has recognized that the "federal three-level system is an inappropriate model for equal protection analysis under the Louisiana Constitution." *Id.* at 1105 (capitalization altered). Instead, the Louisiana Supreme Court has fashioned a different analysis for whether a statute violates the equal protection guarantees of the Louisiana Constitution. Under this analysis, a law shall be declared unconstitutional in one of three situations: (i) "[w]hen the law classifies individuals by race or religious beliefs, it shall be repudiated completely"; (ii) "[w]hen the statute classifies persons on the basis of birth, age, sex, culture, physical condition, or political ideas or affiliations, its enforcement shall be refused unless the state or other advocate of the classification shows that the classification has a reasonable basis"[7]; and (iii) "[w]hen the law classifies individuals on any other basis, it shall be rejected whenever a member of a disadvantaged class shows that it does not suitably further any appropriate state interest."[8] *Id.* at 1107–08.

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[7] To be clear, in this context, demonstrating a "reasonable basis" under Louisiana's Equal Protection Clause is *not* the same as what is required under "rational basis" review under the Fourteenth Amendment. Rather, the standard of review applicable to such classifications is a "heightened" one. *Moore v. RLCC Techs., Inc.*, 95-2621, pp. 9–10 (La. 2/28/96), 668 So. 2d 1135, 1140–41. Indeed, in the context of sex discrimination, "[t]he texts and relevant convention records on [Article I, §§ 3 and 12] . . . show the framers' intent to meet and often exceed relevant federal law." *Gauthreaux v. City of Gretna*, 2023-0606, p. 1 (La. 6/21/23), 363 So. 3d 254, 255 (Griffin, J., concurring in the denial of the writ and assigning reasons) (citing primary and secondary sources).

[8] As an overlay to this framework, Defendants assert that courts "must construe statutes so as to preserve their constitutionality, when it is reasonable to do so." (Defs.' Mem. at 7 (quoting *State v. Fleury*, 2001-

Although the Louisiana Supreme Court has, on occasion, looked to cases from other jurisdictions to support its equal protection holdings, it has done so only after undertaking the unique constitutional analysis described above. In *State v. Fleury*, for example, the Louisiana Supreme Court addressed a criminal defendant's argument that a statute setting forth greater penalties for thefts from merchants discriminated based on the classification of the victim. 2001-0871, p. 4 (La. 10/16/01), 799 So. 2d 468, 471. Applying the equal protection framework under the Louisiana Constitution, the court first concluded that "the classification . . . does not fall under the classifications enumerated" in the Louisiana Equal Protection Clause, and that the challenger "ha[d] not proved that the classification does not suitably further any appropriate state interest." *Id.* at 473. Only after independently concluding that the statute was constitutional did the court briefly "note that courts of other states" had reached similar conclusions when adjudicating equal protection challenges to similar statutes. *Id.* at 474. But the results reached by other courts merely confirmed what the Louisiana Supreme Court had already concluded; they did not provide a standalone basis for upholding the constitutionality of the statute.

As *Fleury* makes clear, whatever persuasive value *Skrmetti* has here is secondary to the Court's independent determination of the constitutionality of Act 466 under the Louisiana equal protection framework. Thus, the Court must assess Plaintiffs' equal protection claims under the doctrine articulated by the Louisiana Supreme Court and cannot—as Defendants wish—simply copy and paste the Supreme Court's holding in *Skrmetti*.

Further, even if Louisiana's equal protection analysis did fundamentally resemble the analysis under the U.S. Constitution (which it does not), the Court should not import *Skrmetti*'s analysis, particularly in the mechanical form urged by Defendants, for two additional reasons. First, foundational to *Skrmetti*'s reasoning was the Supreme Court's reliance on *Geduldig v. Aiello*, 417 U.S. 484 (1974), to hold that Tennessee's

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0871, p. 5 (La. 10/16/01), 799 So. 2d 468, 472)). But as outlined in the very case cited by Defendants, this presumption of constitutionality does not apply in the context of two of the three levels of scrutiny under *Sibley*. *See Fleury*, 799 So. 2d at 472–73 (explaining that "[u]nder the first level of scrutiny enumerated in *Sibley*, the law creating the classification completely fails" and "[u]nder the second level of scrutiny, the law creating the classification is prima facie proof of a denial of equal protection"); *see also Moore*, 668 So. 2d at 1140 ("When the challenging party cites La. Const. art. I, § 3, the burden may be shifted to the proponent to prove constitutionality" under *Sibley*). In any case, Plaintiffs submit that there is no way to preserve the constitutionality of Act 466 based on the evidence in the record because Defendants have failed to submit *any* evidence demonstrating that Act 466 passes *any* level of constitutionality, as outlined below.

SB1 "does not exclude any individual from medical treatments on the basis of transgender status but rather removes one set of diagnoses—gender dysphoria, gender identity disorder, and gender incongruence—from the range of treatable conditions." *See Skrmetti*, 145 S. Ct. at 1833. But *Geduldig* has never been incorporated into Louisiana jurisprudence, and the Court should decline to follow *Geduldig* here. Since its inception, *Geduldig* has been widely criticized as an illogical aberration that has diminished sex discrimination protections under the Fourteenth Amendment. *See, e.g.*, *Coleman v. Ct. of Appeals of Md.*, 566 U.S. 30, 54–59 & n.6 (2012) (Ginsburg, J., dissenting).[9] Given that the Louisiana Constitution provides *greater* protections than its federal counterpart, the Court should be especially hesitant about importing the reasoning of *Geduldig* to the Louisiana Constitution.

Separately, both *Skrmetti* and *Geduldig* recognized that where, as here, classifications are "mere pretexts designed to effect an invidious discrimination against the members of one [protected class] or the other," such classifications are unconstitutional. *Geduldig*, 417 U.S. at 496 n.20; *Skrmetti*, 145 S. Ct. at 1833; *see also State v. Devall*, 302 So. 2d 909, 912–13 (La. 1974). And while the Supreme Court concluded that the *Skrmetti* plaintiffs "ha[d] not argued that [Tennessee's] prohibitions are mere pretexts designed to effect an invidious discrimination against transgender individuals," *Skrmetti* 145 S. Ct. at 1833, Plaintiffs have done so here. The intent to treat transgender persons differently pervades the history and context of Act 466 and showcases the statute's discriminatory purpose. Indeed, Governor Edwards' veto message conclusively shows pretext, as it characterizes Act 466 as part of "a targeted assault on children that the bill itself deems not 'normal.'" (*See* Pls.' SAMF ¶ 57 (citing Governor's Veto Message).)

All told, Defendants' motion ignores the many reasons why *Skrmetti* does not determine the outcome of this case. Indeed, to resolve Plaintiffs' equal protection claims, the Court must apply a different constitutional analysis, and interpret different arguments, in the context of a different jurisprudential scheme. The fact that Defendants' motion ignores these clear differences demonstrates that their motion is entirely without merit.

[9] Indeed, this view has been common among scholars for almost five decades. See Kenneth L. Karst, *The Supreme Court 1976 Term Forward*, 91 HARV. L. REV. 1, 54 n.304 (1977); Sylvia A. Law, *Rethinking Sex and the Constitution*, 132 U. PA. L. REV. 955, 983–84 (1984); Herma Hill Kay, *Equality and Difference*, 1 BERKELEY WOMEN'S L.J. 1, 31 (1985); ERWIN CHEMERINSKY, CONSTITUTIONAL LAW 759 (3d ed. 2006).

2. Defendants Do Not Engage in Any Statutory Analysis of Act 466, Including Whether It Classifies on the Basis of Either Sex or Transgender Status.

Recognizing the weakness of their position that *Skrmetti* is determinative of the outcome in this case, Defendants pay lip service to the proper standard under the Louisiana Constitution but claim that the difference between the equal protection analyses under the U.S. Constitution and the Louisiana Constitution "is immaterial and does not affect the outcome" of this case. (Defs.' Mem. at 6.) Defendants claim this is so because "[i]f no suspect class or fundamental right is involved the standard of review under the United States and Louisiana Constitutions is essentially the same."[10] (*Id.* at 7 (quoting *La. Chem. Ass'n v. State*, 2012-0230, p. 3 (La. App. 1st Cir. 1/9/13), 2013 WL 105023, at *3, *writ denied*, 2013-0342 (La. 4/19/13), 112 So. 3d 223).) But, as noted, while the Louisiana Supreme Court "has already incorporated much of federal anti-discrimination law into" Article I, § 3 of the Louisiana Constitution, this provision is "inten[ded] to meet and *often exceed relevant federal law*." *Gauthreaux v. City of Gretna*, 2023-0606, p. 1 (La. 6/21/23), 363 So. 3d 254, 255 (Griffin, J., concurring in the denial of the writ and assigning reasons) (emphasis added). Moreover, Defendants do not even attempt to engage in the requisite statutory analysis of Act 466 to support their suggestion that no suspect class is involved here. To the contrary, they fail to reference the text of Act 466 anywhere in their summary judgment papers.

Defendants' silence with respect to the text of Act 466 is not surprising, given that a comparison of the text of Act 466 to the text of SB1 underscores why the Court should not import *Skrmetti*'s analysis to the Louisiana Constitution, particularly in the rote manner Defendants propose. *Skrmetti*'s analysis turned on the Supreme Court's conclusion that Tennessee's statute classified based on age and medical condition. *See Skrmetti*, 145 S.

[10] Defendants also attempt to shoehorn themselves into a more favorable standard of review by claiming that laws and regulations enacted "for the purpose of preserving the public health, safety, and welfare constitute a valid exercise of the police power of the State (and are thus constitutional) provided that the means selected to preserve the public health, safety, and welfare have a real and substantial relationship to the purpose sought to be obtained." (Defs.' Mem. at 7–8 (quoting *N'Dakpri v. La. State Bd. of Cosmetology*, 2023-1213, pp. 18–19 (La. App. 1st Cir. 6/21/24), 392 So. 3d 407, 420–21).) But this argument incorporates the test for whether a law is a valid exercise of the state's police power, not whether a law violates the equal protection guarantees of the Louisiana Constitution. *See Gilbert v. Catahoula Par. Police Jury*, 407 So. 2d 1228, 1231 (La. 1981) ("The test to be applied *in determining whether a particular ordinance is a reasonable exercise of a government's police power* is whether there is a real and substantial relationship between the regulation imposed and the prevention of injury to the public or the promotion of the general welfare." (emphasis added)). In any case, as explained below, Act 466 does not have a "real and substantial relationship" to the state's interest in preserving the health, safety, and welfare of the public. Instead, it undermines this interest.

Ct. at 1829. That is not the case here, where Act 466 bans medical care for transgender minors *regardless of medical condition*.

Indeed, SB1 discriminated based on medical condition by prohibiting the medications and procedures at issue only when provided "for the purpose of . . . [t]reating *purported discomfort or distress* from a discordance between the minor's sex and asserted identity." Tenn. Code Ann. § 68-33-101(n)(2) (emphasis added); (*see also* Pls.' SAMF ¶ 78 (citing Tenn. Code Ann. § 68-33-101(n)(2))). This aligns with the definition of gender dysphoria, which is a medical condition. (*See* Pls. SAMF ¶¶ 160–70.) Conversely, Act 466 prohibits the medications and procedures at issue when they "attempt to alter a minor's appearance in an attempt to validate a minor's perception of the minor's sex, if the minor's perception is inconsistent with the minor's sex," *regardless of medical condition*. La. R.S. § 40:1098.2(A); (*see also* Pls.' SAMF ¶¶ 65–66 (citing Act 466)). In other words, Act 466 operates differently than the ban at issue in *Skrmetti*, such that *Skrmetti*—even when taken at face value—does not control this case's equal protection analysis.

Defendants' failure to engage with the differences outlined above is fatal to their motion. As the Louisiana Supreme Court has made clear, the "threshold issue" in an equal protection case "is whether the burden of proof . . . rests with plaintiff or with defendants." *Moore v. RLCC Techs., Inc.*, 95-2621, p. 8 (La. 2/28/96), 668 So. 2d 1135, 1140. To determine the burden of proof, the Court must assess the classification in the challenged statute, which refers to "the distinction made between one group and another or the basis on which one group is treated differently from another." *Id.* at 1140–41. If the statute classifies based on birth, age, sex, culture, physical condition, or political ideas or affiliations, "there is a reversal of the ordinary placement of the burden of proof on the party asserting unconstitutionality," and "[t]he burden is shifted to the proponent of the classification." *Id.* If the statute does not classify on one of these bases, or on the basis of race or religious beliefs, then the challenger has the burden of proving that "the classification does not suitably further any appropriate governmental interest." *Id.* at 1141.

Determining the classification in a challenged statute requires a statutory analysis of the distinctions drawn in that statute. In *Fleury*, for example, the Louisiana Supreme Court looked to "the face of" the challenged statute to conclude that the statute "specifically makes a distinction based on the identity of the victim of the theft" and therefore "singles

out those persons who take anything of value held for sale by a merchant." *Fleury*, 799 So. 2d at 473. The Louisiana Supreme Court undertook the same analysis in *Sibley*, concluding that the challenged statute facially created two classes of medical practice victims, which amounted to a classification on the basis of physical condition. *Sibley*, 477 So. 2d at 1108–09.

Here, however, Defendants do not engage with the statutory text of Act 466 at all. Indeed, their argument that Act 466 does not classify on a suspect basis lacks any analytical support whatsoever. This is plainly improper under the Louisiana Supreme Court's precedents, which demand a statutory analysis. Thus, the Court should deny summary judgment as to Plaintiffs' equal protection claims because Defendants have not established that they are entitled to judgment as a matter of law on the "threshold issue" of the equal protection analysis, let alone the analysis in its entirety. *See Moore*, 668 So. 2d at 1140.

3. Based on the Record, a Reasonable Factfinder Could Conclude that Act 466 Discriminates Based on Sex and Transgender Status.

Even if Defendants had engaged with the text of Act 466 or provided any analytical support for their conclusory assertion that Act 466 does not classify on a suspect basis, summary judgment would still be improper because genuine disputes remain as to the classifications in Act 466. Indeed, both the text of Act 466 and the circumstances surrounding its passage suggest that the statute classifies based on sex—which would require the application of a stricter test for constitutionality—and transgender status.

A. Act 466 Facially Discriminates on the Basis of Sex.

A close analysis of the text of Act 466 reveals that the statute classifies based on sex. It is black-letter law that sex-based classifications are facially discriminatory. *See, e.g.*, *Craig v. Craig*, 365 So. 2d 1298, 1299–300 (La. 1978) (holding that a "legislative classification treating husbands and wives in a dissimilar manner" was facially discriminatory). As such, sex-based classifications are unconstitutional unless "the state [can] show that the classification was not arbitrary, capricious or unreasonable." *Sibley*, 477 So. 2d at 1108–09. As noted above, this is a "heightened" standard." *Moore*, 668 So. 2d at 1140–41.

Act 466 classifies based on sex because a healthcare provider must treat similarly situated patients differently based on their sex under the plain text of the statute. The statute

prohibits healthcare providers from prescribing otherwise medically indicated care if a "minor's perception of the minor's sex . . . is inconsistent with the minor's sex." La. R.S. § 40:1098.2(A); (*see also* Pls.' SAMF ¶¶ 65–68 (citing Act 466)). In other words, the statute allows medical providers to prescribe medication to a female patient who needs it to affirm a female gender identity, but it prohibits medical providers from prescribing the same medication to a male patient who likewise needs it to affirm a female gender identity. (*See* Pls.' SAMF ¶ 68 (citing Act 466).) Prohibiting an action with respect to members of one sex while allowing the same action with respect to members of the opposite sex is the essence of a sex-based classification. *See Craig*, 365 So. 2d at 1299–300 (concluding that "a legislative classification treating husbands and wives in a dissimilar manner" was a sex-based classification); *Lovell v. Lovell*, 378 So. 2d 418, 420 (La. 1979) (same).

Further, the sex-based classification in Act 466 is by no means theoretical. The treatments banned by the law are commonly prescribed to affirm a non-transgender person's gender identity, which is consistent with that person's birth sex, but those same treatments are prohibited if they affirm the same gender identity of a transgender person on the ground that this is inconsistent with the person's birth sex. Take puberty blockers, for example. Puberty blockers have been used extensively in pediatrics for decades, including to treat precocious puberty. (*See* Pls.' SAMF ¶ 212–18 (citing Shumer Report) ("Many of the treatments used today in gender-affirming care, such as puberty-delaying medication, have been safely used in pediatric care for decades in connection with other diagnoses."); *see also* Pls.' SAMF ¶ 291 (citing Shumer Report; Creedon Report).) Likewise, gender-affirming hormones are used to bring hormone levels into the normal range for male and female patients with a variety of conditions, including delayed puberty, hypogonadism, Turner Syndrome, Klinefelter Syndrome, agonadism, premature ovarian failure, and other disorders of sex. (*See* Pls.' SAMF ¶¶ 250–51 (citing Millington Report; Shumer Report).) In all of these instances, gender-affirming hormones are used to affirm the male gender identity of a male patient and the female gender identity of a female patient. Yet Act 466 bans members of a different sex from receiving these therapies for the same purpose—to affirm the sex with which they identify when it differs from their birth sex. Therefore, the sex-based classification in Act 466 has very real consequences.

B. Act 466 Facially Discriminates on the Basis of Transgender Status.

In addition to classifying based on sex, Act 466 also discriminates on the basis of transgender status. The Act's prohibition on prescribing certain medical treatments to a minor only "if the minor's perception [of the minor's sex] is inconsistent with the minor's sex" strikes at the heart of what it means to identify as transgender. *See* La. R.S. § 40:1098.2(A); (*see also* Pls.' SAMF ¶¶ 65–68 (citing Act 466)). Indeed, as one of Plaintiffs' experts, Dr. Kate Millington, explains, the term, "transgender," is used to describe people who identify as a gender that is inconsistent with their sex assigned at birth. (*See* Pls.' SAMF ¶ 148–58 (citing Millington Report).) In other words, Act 466 classifies on a basis that is coextensive with transgender identity, preventing Plaintiffs and other transgender minors from accessing vital medical care because they identify as transgender.

As explained above, despite being banned for transgender minors, the treatments targeted by Act 466 are widely available to minors who are not transgender. To take just one example, puberty blockers are prescribed to cisgender minors to treat a variety of conditions, including delayed puberty, hypogonadism, Turner Syndrome, Klinefelter Syndrome, agonadism, premature ovarian failure, and other disorders of sex. (*See* Pls.' SAMF ¶¶ 250–51 (citing Millington Report; Shumer Report).) Thus, it is solely transgender minors who are barred by Act 466 from accessing puberty blockers for their medical needs.

Further, the Louisiana Attorney General's Office recognized the transgender-status classification in Act 466 as the law was making its way through the Louisiana Legislature. Indeed, a "Legislative Confidential Bill Analysis" completed by the Attorney General's Office concluded that "[t]he statutory language" in Act 466 "raises significant constitutional questions that increase the likelihood of a successful constitutional challenge" and noted that "[n]umerous federal appellate courts have also found laws directed to transgender individuals subject to heightened constitutional scrutiny for targeting a suspect or quasi-suspect class." (*See* Pls.' SAMF ¶¶ 46–52 (citing J. Donahue Legislative Confidential Bill Analysis).) Therefore, in addition to classifying based on sex, Act 466 also classifies on the basis of transgender status, as the Attorney General's Office itself has recognized.

ii. Defendants Have Not Met Their Burden—Under Any Standard of Scrutiny—That Act 466 Is Justified.

Even if Defendants had provided any reasoning regarding the classifications in Act 466, they fail to explain why Act 466—as opposed to Tennessee's SB1—passes constitutional scrutiny. Nor could they. As explained below, the factual record that is before the Court creates a genuine dispute of material fact as to whether Act 466 passes any level of scrutiny under the Louisiana Constitution. Defendants cannot avoid a trial simply by claiming, as they do throughout their motion, that *Skrmetti can* resolve this case.

1. Defendants Urge the Court to Apply the Wrong Level of Scrutiny Based on Legal Conclusions Untethered to the Facts of This Case.

Defendants suggest that the Court need only apply the lowest level of scrutiny to adjudicate the constitutionality of Act 466. (*See* Defs.' Mem. at 7 (claiming that, for Act 466 to pass constitutional scrutiny, "the legislative classification must be rationally related to a legitimate state purpose" (quoting *La. Chem. Ass'n*, 2013 WL 105023, at *3)). In doing so, Defendants once again fall back on their insistence that *Skrmetti* resolves this case. (*See id.* at 8–9 (arguing that "[s]o long as the statute has some reasonable basis, it does not offend the constitution," and "[a]fter *Skrmetti*, it can hardly be argued that the Louisiana statute is unreasonable").)

But Defendants' argument that the Court can determine the level of scrutiny to apply here based on the level of scrutiny that was applied in *Skrmetti* ignores the bedrock principle of Louisiana equal protection jurisprudence that the level of scrutiny applied in an equal protection challenge depends on the classifications in the statute at issue. *See Moore*, 668 So. 2d at 1140 (explaining that the Louisiana Equal Protection Clause "sets up a spectrum for analyzing equal protection challenges based on legislative classifications"). And determining the level of scrutiny by reference to a case arising under the U.S. Constitution would be particularly inappropriate, as "federal jurisprudence should not be used as a model for the interpretation or application" of the Louisiana Equal Protection Clause. *Sibley*, 477 So. 2d at 1107. Ultimately, Defendants' argument that Act 466 passes constitutional scrutiny is nothing more than an attempt to hide behind the federal reasoning of *Skrmetti* rather than grapple with the Louisiana jurisprudential reality that Act 466 requires a more rigorous analysis because it classifies on the basis of sex. The Court should not credit Defendants' clear attempt to avoid litigating the merits of this case

and instead should conclude that Defendants have not shown that they are entitled to summary judgment with respect to whether Act 466 passes constitutional muster.

2. Defendants Have Not Articulated Any State Interest that Justifies the Constitutional Infirmities in Act 466.

Even if Defendants had made any attempt to justify the level of scrutiny that should apply to Plaintiffs' claims under Louisiana law, summary judgment would still be improper because Defendants have not adequately articulated the state interest supporting Act 466. To be sure, Defendants repeatedly claim that Act 466 furthers Louisiana's interest in protecting minors' "welfare." (*See, e.g.*, Defs.' Mem. at 7 (asserting that "the welfare of minors is the sole and only objective of the statute."); *id.* at 8 ("The statute in this instance is designed to protect minors from life-altering medical treatment that is irrevocable and irreparable.").)[11] But setting aside whether this interest is proper in a vacuum, Defendants have presented no competent evidence of fit. In other words, Defendants offer no evidence at all that Act 466 actually serves the state's interest in protecting the health and welfare of minors. Indeed, the only support that Defendants offer is the title of Act 466. (*See* Defs.' Mem. at 7 ("From the title of the Act alone, 'Stop Harming Our Kids Act,' the purpose and intent of the Act is apparent."); *see also* Pls.' Resp. to Defs.' SUMF ¶¶ 3–5 (citing LAAG Art. 1442 Dep. Tr.) (supporting the state interest solely by reference to the title of Act 466).)

Otherwise, Defendants fall back on their refrain that this Court can simply adopt the Supreme Court's conclusions in *Skrmetti* to determine the state interest furthered by Act 466. (*See* Defs.' Mem. at 7–9.) But this ignores another critical difference between Tennessee's SB1 and Act 466. SB1 contained a multi-page preamble outlining the state interests furthered by the law and the factual findings supporting why the law was necessary to further that state interest. *See* Tenn. Code Ann. § 68-33-101 (outlining the factual bases why the Tennessee Legislature "must take action to protect the health and welfare of minors"); (*see also* Pls.' SAMF ¶¶ 75–82 (citing Tenn. Code Ann. § 66-33-101)). Act 466 contains nothing of the sort. This distinction matters because the *Skrmetti*

[11] While Defendants' Statement of Undisputed Material Facts also suggests that Act 466 furthers the state's interest in regulating the medical profession, Defendants back away from this position in their memorandum of law. (*See* Defs.' Mem. at 7 (asserting that "the welfare of minors is the sole and only objective of the statute.").) Further, an Article 1442 representative of the Louisiana Attorney General's Office testified that the only interest served by Act 466 is the "protection of minors." (*See* Pls.' Resp. to Defs.' SUMF ¶ 5 (citing LAAG Art. 1442 Dep. Tr.).)

Court relied on SB1's preamble in determining that SB1 passed constitutional scrutiny. *Skrmetti*, 145 S. Ct. at 1835–36.

Defendants' effort to adopt the state interest and factual findings outlined in *another state's* statute (SB1) is yet another piece of their patchwork attempt to manufacture a state interest where none exists. It makes no sense for Defendants to rely almost entirely on the preamble of a different law enacted by a different state, until one realizes that no state interest was included in Act 466. Defendants' inconsistency only underscores why this Court should deny Defendants' motion and consider the full evidentiary record at trial to determine whether the record supports the asserted state interest behind Act 466.

3. Defendants Offer No Argument that Act 466 Is Narrowly Tailored to Further a Compelling State Interest.

Because there is a genuine dispute of material fact as to whether Act 466 classifies on the basis of sex, Defendants are not entitled to summary judgment unless they can "establish that the classification substantially furthers an important governmental objective." *Moore*, 668 So. 2d at 1140–41; *see also Fleury*, 799 So. 2d at 472–73 (same). Defendants make no attempt to seriously argue that Act 466 passes this heightened standard. Instead, Defendants only offer the senseless assertion that Act 466 is proper because it does not "arbitrarily prohibit all modes of treatment for all ills." (Defs.' Mem. at 8.) But the fact that Act 466 does not arbitrarily prohibit the practice of medicine writ large has nothing to do with whether the specific prohibitions set out in Act 466 "substantially further" Defendants' asserted interest in protecting the health and welfare of minors. *See Moore*, 668 So. 2d at 1140–41.

In any event, the record raises a genuine dispute of material fact as to whether Act 466 actually "substantially furthers" the welfare of minors. In fact, Plaintiffs' uncontradicted evidence suggests that Act 466 actually harms minors by preventing them from accessing beneficial medical treatment. (*See* Pls.' SAMF ¶¶ 484–511.)

As an initial matter, the LDH Report, which was commissioned by the author of Act 466 the year before he introduced it as a bill, suggests that Louisiana minors derive a substantial benefit from gender-affirming medical care, with minimal risks. (*See id.* ¶¶ 10–12, 17.) According to the report, "mental health outcomes (e.g., depression, suicidal ideation)" of minors receiving gender-affirming medical care "improved after treatment and when compared to individuals not treated." (*See id.* ¶¶ 17, 234, 253, 293 (citing LDH

Report).) Meanwhile, "regret or retransition in youth is rare (1% or less)" and "medical or physical health outcomes (e.g., blood pressure, lipids, glucose)" showed either "small changes" or "no difference." (*See id.* ¶ 21 (citing LDH Report).)

The LDH report is consistent with Plaintiffs' uncontroverted experts, who explain in detail that Act 466 in fact harms transgender youth by preventing them from accessing vital medical care. (*See id.* ¶¶ 484–511.) As documented in the report of Ms. Hilary Mabel, Plaintiffs' bioethics expert, "[a] chorus of major U.S. medical societies judge medical care to be beneficial for minors with gender dysphoria who meet criteria," along with independent organizations like the RAND Corporation. (*See id.* ¶ 171 (citing Mabel Report).) Plaintiffs' psychiatric expert, Dr. Aron Janssen, agrees that "[g]ender-affirming medical care for transgender adolescents—including puberty delaying medication and gender-affirming hormones—is widely accepted as medically necessary treatment for gender dysphoria" and that there is "robust evidence demonstrating the value of medical interventions for adolescents when in the context of an appropriate psychosocial evaluation." (*See id.* ¶¶ 176–78, 264, 271, 287–89 (citing Janssen Report).) The standard of care for adolescents with gender dysphoria can include the prescription of "puberty-delaying medications" and hormone treatment, with "[e]ligibility and medical necessity . . . determined case-by-case, based on an assessment of the adolescent's unique cognitive and emotional maturation." (*Id.* ¶¶ 196, 219 (citing Janssen Report; Creedon Report).) Leaving gender dysphoria untreated can "cause significant distress including increased risk of depression, anxiety, and suicidality." (*Id.* ¶¶ 170, 286, 495–97.)

Dr. Jennifer Creedon's experience practicing psychiatry in Louisiana affirms this international consensus. (*See id.* ¶¶ 179–88.) In her experience, for adolescents with gender dysphoria, "supported exploration of gender identity and possible treatment options correlates with improvement in mental health symptoms and subsequent hospitalizations." (*See id.* ¶ 189 (citing Creedon Report).) And in her uncontested expert opinion, "[t]he medical interventions that are now banned under Act 466, which include puberty blockers and hormone treatments, not only treat an adolescent's gender dysphoria but can also greatly improve an adolescent's psychological well-being." (*Id.* ¶¶ 286, 289, 497.) Dr. Creedon has observed "numerous examples" of Louisiana minors "who, after receiving now-banned medical treatments, have greatly improved their mental health and reduced

their incidence of suicidal ideation." (*Id.* ¶ 499.) Conversely, she has "seen the re-emergence of severe psychological distress in youth who have lost access to these treatments" after the passage of Act 466. (*Id.*) Indeed, Dr. Creedon's report notes that patients no longer receiving "gender affirming hormones experienced distress as they once again felt less comfortable in their physical bodies." (*Id.* ¶ 501.) Meanwhile, some patients that had been on puberty blockers express "a sense of hopelessness." (*Id.* ¶ 502.) Dr. Creedon has observed "at least one patient in this situation attempt suicide (after a period of psychiatric stability) and several others that have reverted to self-harm behaviors that had previously resolved." (*Id.*)

Further, as the reports submitted by Plaintiffs' other experts make clear, the harms caused by Act 466 go beyond those attributable to the inability of transgender minors to access necessary medical care. (*See id.* ¶¶ 484–511.) Indeed, by singling out transgender youth for differential treatment, Act 466 reinforces discrimination against transgender people, which has been shown to negatively impact their mental health and wellbeing. (*See id.* ¶¶ 494–95.) Discriminatory legislation like Act 466 may also make patients less likely to disclose their medical issues for fear of state intervention and cause healthcare providers to relocate out of state, which deprives all citizens of Louisiana of the benefit of having skilled healthcare providers. (*See id.* ¶¶ 505–08.) Accordingly, the harms caused by Act 466 are not only acute, but also wide-ranging.

Thus, the triable dispute of material fact is clear. On the one hand, Defendants offer bare assertions of protecting children supported by no credible evidence, no expert opinions, and no analysis of the legislative record. (*See, e.g.*, Pls.' Resp. to Defs.' SUMF ¶¶ 3–5 (citing LAAG Dep. Tr.) (admitting that the Louisiana Attorney General's Office cannot identify the specific harms that Act 466 was enacted to address).) On the other hand, as set forth above, Plaintiffs have put forth a robust body of medical and scientific literature, (*see, e.g.*, *id.* ¶¶ 197–263), an extensive inventory of expert opinions, and the proposed testimony of the harms experienced by the Plaintiffs themselves. A trial is warranted, but it will not be competitive.

Indeed, the closest thing to evidence that Defendants point to is the *Skrmetti* Court's discussion of a single report published in the United Kingdom. (*See* Defs.' Mem. at 8.) But the conclusions of that report are hardly undisputed, (*see* Pls.' Resp. to Defs.' SUMF

¶ 8; Pls.' SAMF ¶¶ 264–94), and in any case, a secondhand discussion of one foreign report that is not properly part of Defendants' record cannot establish that there is no genuine dispute of material fact when Plaintiffs have put forth extensive evidence contradicting the conclusions of that singular report. Accordingly, Defendants have not carried their burden of proving that there is no genuine dispute of material fact as to whether Act 466 passes the requisite level of scrutiny for sex-based classifications, and Defendants' motion must be denied as a result.

4. Act 466 Does Not Suitably Further, and Is Not Rationally Related to, Any Appropriate State Interest.

Further, even if the lowest level of constitutional scrutiny applies, as Defendants would have this Court conclude, there is still a genuine dispute of material fact as to whether Act 466 "suitably further[s] any appropriate state interest," in accordance with the "lowest level of scrutiny" applied under the Louisiana Equal Protection Clause. *Fleury*, 799 So. 3d at 473. When this level of scrutiny applies, a "law is presumed constitutional and the challenging party . . . has the burden of proving that" the statute is unconstitutional. *Id.* at 475. But a presumption of constitutionality does not guarantee that a law actually is constitutional. *See, e.g.*, *Marceaux v. State*, 97-0273, pp. 13–14 (La. App. 1st Cir. 9/25/96), 720 So. 2d 29, 38, *writ denied*, 98-3134 (La. 2/5/99), 738 So. 2d 10 (invalidating a law on equal protection grounds where the state failed to put forth sufficient grounds for affording differential treatment to divisions of the Department of Wildlife and Fisheries).

The evidence in the record is sufficient to create a genuine issue of material fact regarding whether Act 466 actually does "suitably further any appropriate state interest." As noted above, the only support Defendants provide for their assertion that "the welfare of minors is the sole and only objective" of Act 466 is (i) the title of the statute, and (ii) references to the Supreme Court's conclusions in *Skrmetti*. (*See* Defs.' Mem. at 7.) Even assuming this paltry evidence sufficiently establishes that Act 466 was enacted to support the state's interest in protecting the health and wellbeing of minors (which, as explained above, it does not), Defendants have provided *no* evidence that Act 466 actually furthers this purpose, relying instead on conclusory statements and references to *Skrmetti*. (*Id.* at 7–9.) When viewed in conjunction with the substantial evidence put forward by Plaintiffs that Act 466 in fact detracts from the state's interest in protecting the health and

wellbeing of minors, these unsupported claims fall far short of justifying summary judgment.

To ascertain the critical benefits that gender-affirming medical care provides, the Court need look no further than the Minor Plaintiffs' own experiences. Prior to the enactment of Act 466, Plaintiffs Daniel Doe, Max Moe, Nia Noe, and Grant Goe experienced positive mental, physical, and social changes following treatment with gender-affirming medical care.[12] (*See* Pls.' SAMF ¶¶ 91–110, 332–483.) Indeed, following the initiation of treatment, these Minor Plaintiffs began to feel more like themselves and, ultimately, much happier. (*See id.*) And these positive changes resulted in broader benefits beyond those to the Minor Plaintiffs' immediate health and wellbeing, including improved academic performance, increased involvement in extracurricular activities, and more time spent with friends. (*See id.*) Yet Act 466 has banned the treatments that have given these Minor Plaintiffs a new lease on life, all for the asserted purpose of protecting the health and wellbeing of minors. (*See id.*)

Further, as explained above, the experiences of these Minor Plaintiffs are consistent with Plaintiffs' uncontested expert reports, which demonstrate that gender-affirming medical care is both safe and offers critical benefits to minors suffering from gender dysphoria. By banning these critical and often lifesaving medical treatments, Act 466 actually harms minors' overall wellbeing. Indeed, in her expert report, Dr. Creedon discusses how minors *in Louisiana* have benefitted from improved mental health outcomes, including a reduction in suicidal ideation, after starting treatment with medications that are now banned by Act 466. (*See id.* ¶¶ 289–91 (citing Creedon Report).) Conversely, and sadly, Dr. Creedon has observed in her Louisiana patients "severe psychological distress," a "sense of hopelessness," and in one case, an attempted suicide due to their inability to access the medications that are now banned by Act 466. (*Id.* ¶¶ 501–02.) Dr. Creedon's observations of her patients, transgender children who live *in Louisiana*, demonstrates that a reasonable factfinder could conclude, from the evidence in the record, that Act 466 in fact hinders the state's interest in protecting the health and wellbeing of minors.

[12] While Plaintiff Susie Soe currently desires to receive gender-affirming medical care, she has not received any gender-affirming medical care to date because she was too young to begin puberty blockers prior to the enactment of Act 466. (*See* Pls.' SAMF ¶¶ 84–90, 295–331.)

Considering these facts, Defendants insistence that "it can hardly be argued that the Louisiana statute is unreasonable and unrelated to a state concern" is nonsensical. (*See* Defs.' Mem. at 8.) Accordingly, even if the lowest level of scrutiny does apply to Plaintiffs' equal protection claims (which it does not), Plaintiffs have presented more than enough evidence to demonstrate genuine factual disputes regarding whether Act 466 furthers Defendants' asserted purpose of protecting the health and welfare of minors.

iii. Defendants Do Not Address Plaintiffs' Parental Rights and Medical Autonomy Claims, and It Is Thus Inappropriate to Resolve These Claims on Summary Judgment.

While Defendants' argument that *Skrmetti* resolves this case lacks merit with respect to Plaintiffs' equal protection claims, it is wholly inapposite with respect to Plaintiffs' remaining claims. As explained further below, *Skrmetti* only addressed equal protection claims, and Defendants make no other serious argument for why they are entitled to summary judgment on Plaintiffs' parental rights and medical autonomy claims. Nor could they. The evidence in the record creates a genuine dispute of material fact as to whether Act 466 violates the Parent Plaintiffs' right to direct the medical care of their children and the Minor Plaintiffs' right to bodily autonomy. Further, because the record fails to show that Act 466 can withstand any level of constitutional scrutiny, Defendants' motion for summary judgment must be denied as to Plaintiffs' remaining claims as well.

1. Neither the Arguments in Defendants' Motion Nor the U.S. Supreme Court's Decision in *Skrmetti* Apply to Plaintiffs' Parental Rights and Medical Autonomy Claims.

Defendants do not make any real attempt to address Plaintiffs' parental rights and medical autonomy claims beyond pointing to *Skrmetti*, an equal protection case. Outside of pointing to *Skrmetti*, Defendants' arguments are limited to the conclusory assertion that "[n]othing in the statutes is disruptive to the relationship between the minors and their [parents]"[13] and the confusing claim that Act 466 "does not broadly deny a category of medical treatment to minors," coupled with the acknowledgment that Act 466 categorically bans treatment for gender dysphoria. (Defs.' Mot. at 9–10.) These barebones and unsupported conclusory claims do not come close to justifying summary judgment.

[13] At least, this is what Plaintiffs assume Defendants intended to assert. (*See* Defs.' Mem. at 9–10 ("Nothing in the statutes is disruptive to the relationship between *the minors* [sic] *and their children*." (emphasis added)).)

To be clear, *Skrmetti* is not relevant to Plaintiffs' parental rights and medical autonomy claims. Indeed, as the first sentence in *Skrmetti* establishes, the sole issue in that case was "whether a Tennessee law banning certain medical care for transgender minors violate[d] the Equal Protection Clause of the Fourteenth Amendment." *Skrmetti*, 145 S. Ct. at 1824. And the Court expressly declined to review a parental rights challenge to Tennessee's law. *See L.W. ex rel. Williams v. Skrmetti*, 145 S. Ct. 2844 (2025). Further, at oral argument in *Skrmetti*, Justice Amy Coney Barrett elicited a concession that the Supreme Court's eventual decision would have "no impact" on the parental rights claim brought by the plaintiff in that case. Transcript of Oral Argument at 64:18–65:1, *Skrmetti*, 145 S. Ct. 1816 (No. 23-477). And Tennessee's counsel agreed that, regardless of the Supreme Court's holding, "it would be open to parents to continue to press" their parental rights claims in other cases. *Id.* at 143:15–22. In short, *Skrmetti* does not "foreclose[]" Plaintiffs' parental rights and medical autonomy claims. (Defs.' Mem. at 2.) To the contrary, *Skrmetti* expressly invites such claims.

2. Genuine Issues of Fact Remain as to Plaintiffs' Parental Rights and Medical Autonomy Claims.

Setting aside Defendants' utter failure to engage with Plaintiffs' parental rights and medical autonomy claims, the record plainly precludes summary judgment on either claim. Viewed as a whole, the undisputed evidence in the record creates a genuine issue of material fact as to whether Act 466 infringes on the Parent Plaintiffs' right to direct the medical care of their children and the Minor Plaintiffs' right to bodily autonomy. Further, because Defendants have not seriously argued that Act 466 can withstand any level of constitutional scrutiny, Plaintiffs are also entitled to proceed to trial on these claims as well.

A. Act 466 Violates the Parent Plaintiffs' Right to Direct the Medical Care of Their Minor Children.

The Louisiana Constitution affords parents a fundamental privacy right to make decisions regarding the health and welfare of their children. Under Article I, Section 5 of the Louisiana Constitution, "[e]very person shall be secure in his person, property, communications, houses, papers, and effects against unreasonable searches, seizures, *and invasions of privacy*." La. Const. art. I, § 5 (emphasis added). This affirmative right to privacy "is one of the most conspicuous instances" where Louisiana's citizens "have chosen a higher standard of individual liberty than that afforded by the jurisprudence

interpreting the federal constitution." *State v. Hernandez*, 410 So. 2d 1381, 1385 (La. 1982). Indeed, where a statute violates a person's right to privacy, "it may be justified only by compelling state interests, and [it] must be narrowly drawn to express only those interests." *Hondroulis v. Schuhmacher*, 553 So. 2d 398, 415 (La. 1988); *see also State v. Perry*, 610 So. 2d 746, 760 (La. 1992) ("[W]here a decision as fundamental as those included within the right of personal privacy is involved . . . the state action must be narrowly confined so as to further only that compelling interest.").

Relevant here, the Louisiana Constitution's right to privacy protects the privacy of parents to make decisions regarding the medical care of their children without state interference. *Perry*, 610 So. 2d at 756 (recognizing that the right to privacy encompasses "personal decisions relating to marriage, procreation, contraception, family relationships, *and child rearing and education*" (emphasis added)). Thus, it is well settled that the Parent Plaintiffs here have a "constitutionally protected fundamental right of privacy in child rearing," such that any statute that "unduly burdens parental rights would be unconstitutional." *Wood v. Wood*, 2002-0860, pp. 8–9 (La. App. 1st Cir. 9/27/02), 835 So. 2d 568, 573, *writ denied*, 2002-2514 (La. 3/28/03), 840 So. 2d 565; *see also Reinhardt v. Reinhardt*, 97-1889, p. 5 (La. App. 1st Cir. 9/25/98), 720 So. 2d 78, 80, *writ denied*, 98-2697 (La. 12/18/98), 734 So. 2d 635 (recognizing a "parent's fundamental right of privacy in child rearing").

The right of parents to direct the upbringing of their children has also been recognized as a fundamental right, independent of its privacy aspect, by the Louisiana Supreme Court. *See State ex rel. J.A.*, 1999-2905, pp. 7–8 (La. 1/12/00), 752 So. 2d 806, 810 (stating that parents have a fundamental right to "the continuing companionship, care, custody and management of their children"). This fundamental right encompasses "the right to make medical decisions and provide such care and comfort as the parents deem appropriate."[14] *Babin v. McDaniel*, 2005-2455 (La. App. 1st Cir. 3/24/06), 934 So. 2d 69, 80 (Whipple, J., concurring). If a law burdens the fundamental right of parents to make medical decisions for their children, it must be struck down if it is "arbitrary and

[14] At least one other state court has already recognized that this fundamental right under its state constitution applies to decisions regarding gender-affirming medical care. *See Moe v. Yost*, 2025-Ohio-914, ¶¶ 93, 98 (10th Dist.) (describing "the right of parents to make decisions concerning the care, custody, and control of their children" as a "long-recognized and well-established fundamental liberty interest," which encompasses "parents' fundamental right to direct their children's medical care").

unreasonable." *Babineaux v. Judiciary Comm'n*, 341 So. 2d 396, 400 (La. 1976); *see also Stevens v. St. Tammany Par. Gov't*, 2019-1555, p. 21 (La. App. 1st Cir. 4/8/21), 322 So. 3d 1268, 1285, *writ denied*, 2021-0800 (La. 11/3/21), 326 So. 3d 898 (explaining that fundamental rights provide "protection from arbitrary and capricious action").

Here, Act 466 infringes on the Parent Plaintiffs' right to direct the medical care of their children by preventing them from accessing safe and effective treatments for gender dysphoria recommended by their children's doctors. This is clear from Plaintiff Michael Moe's declaration. As explained in the declaration, Michael Moe was actively involved in developing, and approving, the medical treatment for his son, Max Moe, following Max Moe's diagnosis with gender dysphoria. (*See* Pls.' SAMF ¶¶ 354–55, 361 (citing Michael Moe Decl.).) In this capacity, Michael Moe engaged in extensive discussions with Max Moe's medical providers regarding Max Moe's wishes to receive puberty-blockers and gender-affirming hormones. (*See id*. ¶¶ 356–57.) Michael Moe was also actively involved in monitoring Max Moe's treatment, including administering Max Moe's weekly testosterone injections. (*See id.* ¶ 356.) Because of his involvement in Max Moe's treatment, Michael Moe observed firsthand the benefits of Max Moe's gender-affirming medical care. (*See id.* ¶¶ 356, 358–60.) Yet, contrary to Michael Moe's wishes and in violation of Michael Moe's parental rights, Act 466 forced Michael Moe to alter Max Moe's treatment plan, notwithstanding its effectiveness. (*See id.* ¶¶ 363–65.)

The same is true for the other Parent Plaintiffs. Plaintiff Sandra Soe describes at length how she sought treatment for her daughter, Susie Soe's, gender dysphoria. This included talking to Susie Soe's pediatrician, consulting with a pediatric psychologist, and conducting further research. (*See id.* ¶¶ 305, 311, 315–18.) But because of Act 466, Sandra Soe is unable to access the care that Susie Soe needs in order to live a healthy life. (*See id.* ¶¶ 322–23.) As a result, Act 466 prevents Sandra Soe from exercising her parental rights and doing her job as a parent, which includes protecting Susie Soe from harm, making decisions in Susie Soe's best interest, and getting Susie Soe the care she needs to grow into a healthy adult. (*See id.* ¶ 325.)

Likewise, after extensive research and discussions with doctors and pharmaceutical manufacturers, Plaintiff Nancy Noe determined that puberty blockers, and later gender-affirming hormones, would be appropriate treatments for her daughter, Nia Noe. (*See id.*

¶¶ 371–79, 381–86.) Yet following the passage of Act 466, Nia Noe no longer has access to these liberating treatments in Louisiana and instead must travel out of state to receive the proper care for her gender dysphoria. (*See id.* ¶¶ 398–400.) Act 466 has similarly infringed on the parental rights of Plaintiffs Grace Goe and Greg Goe, who now must take their son, Grant Goe, to Los Angeles to receive the healthcare that he needs. (*See id.* ¶¶ 422–24.) And the same is true for Diana Doe and David Doe, who were forced to seek care for their son, Daniel Doe, outside of Louisiana. (*See id.* ¶¶ 467–68.)

But for the passage of Act 466, all of the Parent Plaintiffs—in consultation with their children's physicians—would have continued to access what they understood to be the best medications to treat their children's gender dysphoria. Accordingly, Act 466 infringes on the rights of the Parent Plaintiffs to direct the medical care of their children by artificially limiting—without any evidence—the ability of the Parent Plaintiffs to obtain the medical care they know their children need for the treatment of their gender dysphoria, as recommended by their doctors.

B. Act 466 Violates the Minor Plaintiffs' Right to Autonomy in Deciding Whether to Obtain Medical Treatment.

Act 466 is subject to strict scrutiny under the Louisiana Constitution for the additional reason that it violates the Minor Plaintiffs' right to bodily autonomy. In addition to protecting the right of parents to make medical decisions for their children, the Louisiana Constitution's right to privacy also encompasses the right to "decide whether to obtain or reject medical treatment." *Hondroulis*, 553 So. 2d at 415. This right applies to minors, as well as adults, as the Louisiana Code explicitly recognizes that a minor can "consent to the provision of medical or surgical care or services by a hospital or public clinic, or . . . by a physician." La. R.S. § 40:1079.1; (*see also* Pls.' SAMF ¶ 22). And like parents' right to direct the medical care of their children, the right to obtain or reject medical care has been recognized as a fundamental right under the Louisiana Constitution. *See State v. Fisher*, 628 So. 2d 1136, 1140 (La. App. 1st Cir. 1993), *writ denied*, 637 So. 2d 474 ("We recognize that a patient's right to decide whether to obtain or refuse medical treatment is a fundamental right protected by the Louisiana Constitution.").

Yet Act 466 plainly deprives the Minor Plaintiffs of their ability to choose, in conjunction with their parents and medical providers, the medical care that is best for them,

as Plaintiff Daniel Doe's experience makes clear. After being diagnosed with gender dysphoria in July 2022, Daniel Doe consulted with a pediatric endocrinologist at CrescentCare regarding the initiation of testosterone therapy as a treatment option. As Daniel Doe testified during his deposition, he performed his own independent research about treatment options and then, after reviewing risks and discussing with his parents and doctors, decided to pursue hormone therapy. (*See* Pls.' SAMF ¶¶ 91–95, 426–83.) Daniel Doe subsequently experienced many positive changes as a result, including improvement in his academic performance at school, election to leadership positions in extracurricular organizations, and admission to many top colleges. (*Id.*) Act 466 infringes on Daniel Doe's right to continue his chosen course of treatment in Louisiana, and the law was a significant factor in Daniel Doe's decision to attend college outside the state. (*Id.* ¶ 483.)

Act 466 has similarly infringed on the other Minor Plaintiffs' rights to pursue their chosen medical care, as determined in conjunction with their parents and medical providers. Plaintiff Nia Noe experienced positive changes in her mental health after receiving puberty blockers and gender-affirming hormones, and has no regrets about receiving these treatments, yet Act 466 infringes on her constitutionally protected ability to continue the treatment she needs in Louisiana. (*See* Pls.' SAMF ¶¶ 101–04, 366–400.) The same is true for Plaintiff Grant Goe, who is no longer able to receive gender-affirming medical care in Louisiana, despite the conclusion of his parents and doctors that he displayed sufficient maturity and understanding of the risks and benefits of these treatments. (*See id.* ¶¶ 401–25.)

Act 466 therefore infringes on the Minor Plaintiffs' right to access the medical care of their choosing, in consultation with their parents and healthcare providers. Indeed, other *state* courts have already reached this conclusion under their own *state* constitutions in the context of similar *state* statutes. As these other state courts have acknowledged, bans on gender-affirming medical care for minors violate an individual's fundamental right to make treatment decisions concerning "a particular lawful medical procedure from a health care provider that has been determined by the medical community to be competent to provide that service and who has been licensed to do so." *Cross ex rel. Cross v. State*, 2024 MT 303, ¶ 21, 419 Mont. 290, 560 P.3d 647 (quoting *Armstrong v. State*, 1999 MT 261, ¶ 62, 296 Mont. 361, 989 P.2d 364); *see also Moe v. Yost*, 2025-Ohio-914, ¶ 70 (10th Dist.) ("[I]t

is the constitutional right of Ohio citizens to be free to decide whether they receive health care services recommended by medical professionals and widely accepted by the professional medical community as the appropriate treatment protocols for an appropriately diagnosed medical condition.").

C. Defendants Have Not Established that Act 466 Is Narrowly Drawn to Solely Further a Compelling State Interest.

Because Act 466 infringes on Parent Plaintiffs' right to direct the medical care of their children and Minor Plaintiffs' right to medical autonomy, it must be reviewed under strict scrutiny. *See Reinhardt*, 720 So. 2d at 79 ("In Louisiana, the standard of strict scrutiny is applied to review state action that imposes a burden on decisions as fundamental as those included within the right of personal privacy."). Under this standard, Act 466 is constitutional only if it is justified by "compelling state interest[s]" and "narrowly drawn to express only those interests." *Hondroulis*, 553 So. 2d at 415.

As explained above, the evidence in the record creates a genuine issue of material fact as to whether Act 466 serves a compelling state interest. Indeed, stripped of their conclusory assertions and inapposite references to *Skrmetti*, the only support that Defendants present for the interest furthered by Act 466 is the title of the statute itself. (*See* Defs.' Mem. at 7 ("From the title of the Act alone, 'Stop Harming Our Kids Act,' the purpose and intent of the Act is apparent.").) But other evidence in the record, such as Governor Edwards' veto message, suggests that Act 466 was passed not to protect the health and wellbeing of minors, but instead as part of "a targeted assault on children that the bill itself deems not 'normal.'" (*See* Pls.' SAMF ¶¶ 55–59 (citing Governor's Veto Message).) Defendants cannot demonstrate that there is no genuine dispute of material fact regarding the state interest furthered by Act 466, no matter how many times they insist that "Louisiana's compelling interest in the welfare of minors warrants the legislative action taken."[15] (Defs.' Mem. at 10.)

[15] In other words, the state's interest to "protect minors" must be weighed carefully against Parent Plaintiffs' "fundamental right to seek a specific form of health care for their children, subject to a physician's independent examination and medical judgment, which would include the gender-affirming medical care," and Minor Plaintiffs' right "to decide whether [to] receive health care services recommended by medical professionals and widely accepted by the professional medical community as the appropriate treatment protocols for an appropriately diagnosed medical condition." *Yost*, 2025-Ohio-914, at ¶¶ 70, 90 (10th Dist.). This is especially true when, as described herein, the state demonstrates scant evidence to support the regulation.

Further, to the extent Defendants claim that Act 466 serves the state's interest in protecting the health and wellbeing of minors, the record raises a genuine issue of material fact as to whether Act 466 furthers this purpose *at all*. As explained above, Plaintiffs' undisputed expert reports establish that Act 466 in fact *harms* children by preventing them from accessing beneficial, and in some cases lifesaving, medical care. Indeed, the undisputed evidence in the record demonstrates that puberty-blocking medications can significantly improve the mental health of adolescents diagnosed with gender dysphoria, with no long-term implications. (*See* Pls.' SAMF ¶ 287 (collecting studies showing that puberty blockers lead to "decreased rates of depression, anxiety, and behavioral problems, with corresponding short- and long-term quality of life improvements").) The same is true for hormone treatments, which consistently have been shown to reduce depression, anxiety, and suicidal ideation and improved wellbeing, life satisfaction, and body image. (*See id.* ¶¶ 288–89 (collecting numerous studies, some of which include data on tens of thousands of minors diagnosed with gender dysphoria).)

Setting aside this overwhelming, undisputed evidence that Act 466 does not protect the health and wellbeing of minors in any way, Defendants do not seriously argue that Act 466 is "the *least restrictive* means available to achieve" this interest, as is required for narrow tailoring. *See State v. Spell*, 2021-0876, p. 15 (La. 05/13/22), 339 So. 3d 1125, 1137 (emphasis added). Indeed, Defendants attempt to demonstrate narrow tailoring through only the weak claim that Act 466 "does not broadly deny a category of medical treatment to minors but limits the prohibition of treatment to gender dysphoria." (Defs.' Mem. at 10.) Setting aside that it is unclear how banning *all medical treatments* for gender dysphoria "does not broadly deny a category of medical treatment," the evidence in the record shows that the Legislature was presented with, and rejected, less drastic alternatives to the gender-affirming-care ban in Act 466.

During a hearing on May 2, 2023, the House Committee on Health and Welfare considered two amendments to a predecessor bill to Act 466 that would have made the prohibitions in the bill less restrictive. These amendments would have allowed healthcare providers to prescribe puberty-blocking medications and hormones to minors after two years of professional counseling, provided that the minor received the written consent of

their parent or guardian.[16] (Health and Welfare Comm. Meeting Minutes at 8.) Rather than adopting these amendments to more narrowly tailor the bill to Defendants' asserted purpose—as the law requires—the Committee on Health and Welfare rejected them and proceeded to pass a total ban. (*Id.*) Such a rejection is impossible to square with the requirement that Act 466 be the "*least restrictive* means available" to achieve Defendants' asserted interest. *Spell*, 339 So. 3d at 1137 (emphasis added). Plaintiffs are accordingly entitled to proceed to trial on their claims that Act 466 violates their privacy rights under the Louisiana Constitution.

D. Act 466 Is Arbitrary and Unreasonable.

For the same reasons that the record raises a genuine dispute of material fact as to whether Act 466 furthers Defendants' asserted interest in protecting the health and wellbeing of minors at all, there is a genuine dispute over whether Act 466 is arbitrary and unreasonable. Defendants insist, over and over again, that Act 466 furthers the "State's interest in safeguarding the physical and psychological well-being of minors," yet they provide no evidence to support this. And all the evidence in the record suggests the exact opposite. Indeed, it is particularly striking that Governor Edwards, in his veto message, wrote that "I assessed the need for this bill based on Louisiana data and facts and read every word of this bill multiple times to determine if there was any possible merit to this bill. There is not." (*See* Pls.' SAMF ¶¶ 55–59 (citing Governor's Veto Message).)

If there really is "a reasonable basis for the statute," as Defendants insist, then Defendants should have no issues demonstrating the constitutionality of Act 466 at trial. (*See* Defs.' Mem. at 10.) But the Court should not allow Defendants to avoid their obligation to litigate Plaintiffs' claims, or deprive Plaintiffs of their day in Court in the process, by entertaining Defendants' factually unsupported motion for summary judgment.

VI. CONCLUSION

Plaintiffs respectfully request that the Court deny Defendants' Motion for Summary Judgment.

[16] For the avoidance of doubt, Plaintiffs do not concede that these proposed amendments would have cured the statute's constitutional infirmities. Plaintiffs merely reference these proposed amendments to illustrate the point that the Legislature could have adopted prohibitions short of a total ban.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have forwarded a copy of the foregoing Opposition to Motion for Summary Judgment to all counsel of record by electronic mail this 30th day of December 2025.

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