

No. 25-840

In the Supreme Court of the United States

INTERNATIONAL PARTNERS FOR ETHICAL
CARE, INC., *et al.*,

Petitioners,

v.

BOB FERGUSON, GOVERNOR OF WASHINGTON, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE NINTH CIRCUIT

**BRIEF OF AMICI CURIAE
JEREMY AND MARY COX
IN SUPPORT OF PETITIONERS**

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TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	iii
INTEREST OF THE <i>AMICI</i>	1
INTRODUCTION AND SUMMARY OF THE ARGUMENT	1
ARGUMENT.....	3
I. The Coxes' story illustrates the dangers that can occur when a child is separated from fit parents due to the parents' religious beliefs.....	3
A. The state interfered with the parent- child relationship with disastrous result.....	4
B. The Coxes attempted to litigate their constitutional rights before every available tribunal and were thwarted every time.....	9
1. The Coxes appeal in state court.	9
2. The Coxes seek relief in federal court.....	11
II. The Coxes' story illustrates that harms to parental rights are concrete and imminent here.	13
A. Washington and other states are passing laws that weaken parental rights.	14
B. Parental rights cases involving teens are subject to mootness, preclusion, and abstention traps.....	18
C. The harm to fundamental rights is real, concrete, and imminent.....	21
CONCLUSION	24

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>In re A.C.</i> , 198 N.E.3d 1 (Ind. Ct. App. 2022)	10, 11, 12, 19
<i>Antonucci v. Winters</i> , 767 F. Supp. 3d 122 (D. Vt. 2025).....	16-17
<i>Bates v. Pakseresht</i> , 146 F.4th 772 (9th Cir. 2025)	16
<i>Blais v. Hunter</i> , 493 F. Supp. 3d 984 (E.D. Wash. 2020).....	17
<i>Brokaw v. Weaver</i> , 305 F.3d 660 (7th Cir. 2002)	12
<i>In re Eq.W.</i> , 124 N.E.3d 1201 (Ind. 2019)	7
<i>Gilbank v. Wood Cnty. Dep’t of Hum. Servs.</i> , 111 F.4th 754 (7th Cir. 2024)	12
<i>Kingdomware Techs. v. United States</i> , 579 U.S. 162 (2016)	18
<i>Knick v. Township of Scott</i> , 588 U.S. 180 (2019)	19
<i>Lasche v. New Jersey</i> , No. 20-cv-2325, 2022 WL 604025 (3d Cir. Mar. 1, 2022)	16

<i>Mahmoud v. Taylor</i> , 606 U.S. 522 (2025)	3, 21, 22, 23
<i>Mirabelli v. Bonta</i> , 607 U.S. 492 (2026)	21, 22, 23
<i>NLRB v. Catholic Bishop of Chicago</i> , 440 U.S. 490 (1979)	21-22
<i>Parham v. J.R.</i> , 442 U.S. 584 (1979)	21, 23
<i>Prince v. Massachusetts</i> , 321 U.S. 158 (1944)	21
<i>Roman Catholic Diocese of Brooklyn v. Cuomo</i> , 592 U.S. 14 (2020)	22
<i>Troxel v. Granville</i> , 530 U.S. 57 (2000)	21

Statutes and Regulations

Cal. Fam. Code § 3424.....	15
Cal. Welf. & Inst. Code § 16010.2	15
2025 Ind. Acts 1186, <i>et seq.</i>	14
Ind. Code § 31-34-1-1.....	5
Ind. Code § 31-34-1-2.....	5
Ind. Code § 31-34-1-6.....	14
Ind. Code § 31-34-1-17.....	14

Ind. Code § 31-34-10-7.....	8
Ind. Code § 31-34-12-5.....	7
Ind. Code § 31-34-20-1.....	8
Ind. Code § 31-42-1-4.....	14
2023 Minn. Sess. Law Serv. Ch. 29	15
Minn. Stat. § 518D.204	15
Minn. Stat. § 543.23	15
Or. Rev. Stat. § 109.640.....	15
Or. Rev. Stat. § 436.205.....	15
Wash. Admin. Code § 110-148-1520	17
Wash. Admin. Code § 110-148-1630	17
Wash. Rev. Code § 13.32A.082.....	19, 20, 23-24

Other Authorities

15A Ind. Prac., Family Law-Children In Need Of Services § 18:7 (2025-2026 ed.)	8
Taryn Quinn Baker, <i>Forgotten Children: When Indiana's Children Cannot Procure Necessary Treatment and Care for Severe Mental Health and Behavioral Issues</i> , 48 Val. U.L. Rev. 1043 (2014)	7

INTEREST OF THE *AMICI*¹

Jeremy and Mary Cox are Catholic parents whose son, A.C., was removed from their home as a teenager by the Indiana Department of Child Services because they did not support A.C.'s desire to transition genders. Though Indiana eventually determined that the Coxes were fit parents, A.C. was never returned home and eventually became a legal adult. This gave the Coxes firsthand experience in how state governments can obliterate parental rights in pursuit of allowing children to transition against their parents' wishes. They hope to prevent other parents from having to experience similarly tragic deprivations of their constitutional rights.

The Coxes submit this brief to demonstrate that parents whose religious beliefs run contrary to state views on transgender youth can face imminent and concrete harm to their parental and free exercise rights. The Coxes also seek to demonstrate that the misapplication of standing, mootness, and other abstention doctrines can harm parents and children by delaying and denying court determinations of parental and free exercise rights.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

Washington demands that parents wait and see if they are separated from their children before coming to federal court. The experience of Mary and Jeremy

¹ No counsel for a party authored this brief in whole or in part and no person other than *Amici* or their counsel made a monetary contribution intended to fund the preparation or submission of this brief.

Cox shows why that approach is dangerous. When the Coxes' gender-confused son complained, Indiana child welfare officials took him from their home for months, and a court restricted them from talking about gender identity with their own son during their limited, once-weekly visitations. And even after the accusations against them were found to be unsubstantiated, their son was kept out of their home through his eighteenth birthday.

The result of this state intervention? Their now-adult son never reconciled with the family and has never returned to their home.

The Coxes attempted to vindicate their parental and free exercise rights in both state and federal court, but a web of state procedural hurdles, federal abstention doctrine, and inevitable mootness left them without any recourse—even after the state acknowledged they were indeed fit parents. The system that Washington defends here is even worse: parents are given no procedure at all before the state disrupts the parent-child relationship by keeping children separate from their parents.

Washington is not alone in eroding free exercise and parental rights, which means the Coxes are not alone either. State procedures for child endangerment are being stretched, as they were in the Coxes' case, to treat fit parents who don't agree to a child's gender transition the same as neglectful or abusive parents—without any finding of neglect or abuse. In fact, California and Minnesota explicitly empower state courts to separate gender-confused children from fit parents. And at least five states have purged families with religious beliefs like the Coxes' from their foster parent rolls, ensuring that children who are separated from

their parents and placed in foster care will have only one outcome: unquestioned support for a gender transition, against the religious practice of their parents.

Washington's law is thus part of a broader pattern of state actors turning to the mechanisms of child welfare to intervene in places they formerly dared not tread: disagreements between fit parents and their teens over questions of gender and sex. The Coxes' story illustrates how quickly severe damage to parental rights, including parental free exercise rights, can occur and how difficult that damage can be to unwind.

This Court has already said that "it is not realistic to expect parents to rely on after-the-fact reports by their young children to determine whether the parents' free exercise rights have been burdened." *Mahmoud v. Taylor*, 606 U.S. 522, 560 (2025). That is precisely what Washington would have parents do here. As explained by Petitioners, the injury to parental and free exercise rights is cognizable, concrete, and imminent. Washington cannot evade litigation simply by making it harder for parents to know when they have been harmed.

ARGUMENT

I. The Coxes' story illustrates the dangers that can occur when a child is separated from fit parents due to the parents' religious beliefs.

The Coxes' experience illustrates the dangers of a wait-and-see approach to parental and free exercise rights. The harms to the parent-child relationship and the child's own health can begin quickly. In other words, they are both imminent and concrete. If the Ninth Circuit's approach is upheld, then families face

the same risk as the Coxes: by the time the court proceedings are complete, the damage to parental rights and religious exercise has already been done.

A. The state interfered with the parent-child relationship with disastrous results.

1. The Coxes' experience is recounted at length in their petition for certiorari in this Court, and here briefly. See Pet. at 6-15, *M.C. v. Indiana Dep't of Child Servs.*, No. 23-450 (U.S. 2024). The Coxes are faithful Catholics living in Indiana. They believe that gender is God-given, innate, and unchangeable. They have taught their children these beliefs, lived according to these beliefs in their home, and raised their children in the Catholic Church.²

Their child, A.C., a biological male, began exhibiting symptoms of distress as a teen. A.C. was not gaining weight and was struggling emotionally, so the Coxes found A.C. a therapist and monitored A.C.'s eating and weight. A.C. informed his parents that he identified as female. The Coxes would not agree to treat A.C. as a girl, but in an attempt to accompany their child through this difficult issue, they agreed to the nickname "A" and enrolled A.C. in therapy to help with A.C.'s gender dysphoria and family dynamics. Pet. at 7-9, *M.C.*, No. 23-450.

Despite these efforts, A.C.'s condition grew worse. In April 2021, when A.C. was sixteen, the Coxes took

² In their petition, Jeremy and Mary Cox were identified by their initials as required in child custody proceedings in Indiana court. As Jeremy and Mary Cox have been publicly identified in the media, they use their full names here. Out of respect for their now-adult son's privacy, they continue to refer to A.C. by initials in this brief.

him for a wellness check, and the doctor recommended treatment for an eating disorder and a full psychosocial evaluation. The Coxes scheduled appointments with the specialists and were also in the process of identifying a new therapist, since A.C.’s current therapist had not been able to address his issues. They also made the decision to transfer A.C. to a new school that they hoped would be a better fit.

2. In late May 2021, just after the end of the academic year, someone from A.C.’s school reached out to Indiana’s Department of Children’s Services, citing a note from A.C. saying that his parents were transphobic and he did not “feel safe” at home. Second Am. Compl. at 9, *Cox v. Indiana Dep’t of Child Servs.*, No. 23-cv-957 (S.D. Ind. 2024), Dkt. No. 57. The reporting person also claimed (accurately) that the Coxes were not using A.C.’s preferred name and pronouns and (inaccurately) that they used vulgar language toward their child. DCS began an investigation and reported that the Coxes were not seeking care for A.C.’s eating disorder and had removed him from school altogether. Both statements were demonstrably false and would later be deemed unsubstantiated by DCS. Pet. at 9-14, *M.C.*, No. 23-450.

On June 1, 2021, DCS filed a verified petition alleging A.C. to be a Child in Need of Services under Indiana Code § 31-34-1-1 (“CHINS-1”) and Indiana Code § 31-34-1-2 (“CHINS-2”) based on the allegations in the initial report. Pet. at 11, *M.C.*, No. 23-450. The Detention/Initial Hearing, which was governed only by a

probable cause standard of proof, was held on the following day. Pet. at 11, Pet. App. at 96a, *M.C.*, No. 23-450.³

DCS's argument at the hearing relied heavily on the Coxes' unwillingness to use A.C.'s chosen name and pronouns, stating:

We just feel that at this point in time this child needs to be in a home that's not going to teach her that trans, like everything about transgender (IN-AUDIBLE) tell her how she should think and how she should feel. However, she should be in a home where she is [ac]cepted for who she is.

Pet. at 12, Pet. App. at 127a, *M.C.*, No. 23-450.

Based only on DCS's report, with no testimony from A.C., and before hearing any evidence from the Coxes, the court found probable cause of abuse and neglect. The court refused to revisit that determination even after hearing the Coxes' later evidence documenting the numerous steps taken to provide for and address A.C.'s medical and educational needs. Instead, the court removed A.C. from the Coxes' custody, allowing DCS to place A.C. in a home that would refer to him using a preferred name and pronouns.

Then the court took the drastic step of making unsupervised visitation contingent on the condition that the Coxes not discuss gender identity during those visits. Pet. at 12, Pet. App. at 52a, *M.C.*, No. 23-450. And

³ Pages from this petition appendix numbered 40a and higher are located in the sealed appendix available to the Court. Where sealed documents have been cited, a supporting citation to publicly filed materials summarizing that information has also been included.

despite that already draconian gag order, the court limited the Coxes' visitation with their child to only a few hours one day a week. Pet. at 12, Pet. App. at 69a, *M.C.*, No. 23-450.

This situation continued for months while DCS investigated the allegations. Meanwhile, the Coxes worked diligently not only to vindicate their rights, but also to exonerate themselves from the severe practical consequences that could arise should the allegations be substantiated. Among other things, a finding under CHINS-1 or -2 would place the Coxes on a child protection registry, endanger their rights regarding their other children at home, and likely bar them from certain jobs.⁴

Throughout this time of continued separation, the Coxes and DCS engaged in negotiations to end the case. Based on those negotiations, the Coxes agreed to a combined initial and fact-finding hearing in November, where the court would determine whether the allegations used to remove A.C. from the home were in fact true. At that time, DCS voluntarily dismissed all

⁴ See *In re Eq.W.*, 124 N.E.3d 1201, 1210-1211 (Ind. 2019) (“[P]ast acts by parents can be relevant to new CHINS filings * * *. There are several compelling reasons to stand by this approach, none clearer than the legislature’s express approval of this practice.” (citing Ind. Code § 31-34-12-5.)); Taryn Quinn Baker, *Forgotten Children: When Indiana’s Children Cannot Procure Necessary Treatment and Care for Severe Mental Health and Behavioral Issues*, 48 Val. U.L. Rev. 1043, 1061 (2014) (“If DCS substantiates a CHINS 1 petition, the court adds the parents’ names to the child abuse registry. Being on the child abuse registry can negatively affect the lives of parents. For example, being on this registry, in addition to being embarrassing, may cause some parents to lose their jobs.”).

allegations against the Coxes and agreed to unstantiate all neglect and abuse allegations against them and expunge the record of all reports related to the Coxes. Pet. at 13, Pet. App. at 89a-90a, *M.C.*, No. 23-450.

The proceeding was converted to a CHINS-6 proceeding, which looks not at abuse, but the risk of a child's self-endangerment. The Coxes did not object to the CHINS-6 conversion, believing that this proceeding would allow A.C. to receive court-supervised treatment, remove the severe potential consequences associated with findings of abuse or neglect, and finally allow them to be reunited with their child.

Under a CHINS-6 proceeding, the court addresses cases where a child is a danger to himself, as opposed to being at risk of harm from others. And in a radical about-face from typical proceedings, "the juvenile court shall determine whether the *child*," not the *parent*, "admits or denies the allegations." Ind. Code § 31-34-10-7 (emphasis added). Thus, "[i]n so-called 'CHINS-6' cases, in which a child is alleged to be in need of services because they are 'substantially endangering' their own health * * * the Code gives the child, not parents, the right to admit or deny that he or she needs services." 15A Ind. Prac., Family Law-Children In Need Of Services § 18:7 (2025-2026 ed.).

Thus, unlike abuse or neglect proceedings, where a court considers the parents' testimony, in a CHINS-6 proceeding, the finding of endangerment is directed by the child's testimony alone. However, that finding leaves open the separate question of what services the child needs and whether the court will remove the child from the parents' custody. See Ind. Code § 31-34-20-1.

A hearing on A.C.'s disposition—meaning where he lived and what kind of treatment the court would order—was held three weeks later, on December 8.

To the Coxes' dismay, DCS took the position that A.C. should be kept out of the Coxes' home due to fears that returning would cause him distress and thus impede treatment of the eating disorder. Pet. App. at 7a, 61a-65a, *M.C.*, No. 23-450. The only reason given for that distress was the disagreement over gender identity. See *ibid.* DCS acknowledged that the eating disorder had actually worsened while A.C. was in state care. *Id.* at 6a, 134a.

Based upon the report and hearing, making no credibility determinations and including no detailed findings of fact, the court issued a brief order directing A.C. and the parents to participate in family therapy and awarding wardship to DCS. Pet. App. at 7a, 40a-46a, *M.C.*, No. 23-450. At the hearing, the court instructed the Coxes not to discuss gender identity with their child until the court had deemed it safe. Pet. at 14, Pet. App. at 80a, *M.C.*, No. 23-450. This order was issued despite the fact that there was no finding of abuse, neglect, or wrongdoing by the Coxes. See Pet. at 13, Pet. App. at 90a, *M.C.*, No. 23-450 (confirming dismissal of CHINS-1 and CHINS-2 petitions).

B. The Coxes attempted to litigate their constitutional rights before every available tribunal and were thwarted every time.

1. The Coxes appeal in state court.

The Coxes promptly appealed the CHINS-6 determination. That process took ten months, with an appellate decision in October 2022.

The appeals court ruled against the Coxes. It rejected their appeal of the initial hearing as moot, since the allegations had been deemed unsubstantiated and the proceeding had been converted into a CHINS-6 at the dispositional hearing. *In re A.C.*, 198 N.E.3d 1, 8-9 (Ind. Ct. App. 2022). This left the Coxes without a remedy for the initial removal—even if it violated their rights—or for DCS’s decision to place A.C. in a home that contravened the Coxes’ religious beliefs for months. In other words, the existence of a later judicial determination left them without a remedy for the initial removal from their home, even if it was unlawful and even though it irreparably violated their parental and free exercise rights.

The appeals court then rejected the Coxes’ challenges to the later judicial determination to continue keeping A.C. outside their home. At that hearing, the Coxes had agreed that A.C. needed help under the CHINS-6 provision, but disagreed with the decision to remove A.C. from their home, which is only one possible outcome of a CHINS-6 determination. Nevertheless, the appeals court concluded that since the Coxes had not objected to the CHINS-6 determination, they could not object to the court’s decision to remove A.C. from their home. *In re A.C.*, 198 N.E.3d at 9-11.

The Court of Appeals next rejected the Coxes’ free exercise and free speech challenges to the CHINS-6 adjudication, determining that Indiana had a compelling interest in keeping A.C. outside the home of admittedly fit parents because of his need for court-ordered treatment. *In re A.C.*, 198 N.E.3d at 14-17. The court also reasoned that the speech restrictions were adequately tailored in light of the dispute between the

Coxes and their son. *Id.* at 19. The only dispute identified in the record was the dispute over gender identity. See *id.* at 7.

In December 2022, the Court of Appeals denied rehearing. While the rehearing petition was pending, the CHINS-6 proceeding closed automatically because A.C. turned 18.

The Indiana Supreme Court then denied review. The Coxes petitioned for certiorari, which this Court denied. In opposing that petition, the state argued that the petition was moot because A.C. had already aged out of care. Br. in Opp. at 13-14, *M.C.*, No. 23-450.

A.C. has never returned home.

2. The Coxes seek relief in federal court.

Seeking some recourse, the Coxes filed a lawsuit in federal court alleging that DCS had violated their constitutional rights in the initial removal hearing. Second Am. Compl., *Cox*, No. 23-cv-957. The Coxes further alleged that DCS officials had knowingly made false statements in the removal hearing. *Id.* at 2-3. They also argued that they had not had an adequate opportunity to raise their constitutional claims in the state proceeding, which was concerned with the CHINS status of their child and not their own constitutional rights. Resp. to Mot. to Dismiss at 16-18, *Cox*, No. 23-cv-957; see also Pet. App. at 40a-49a, *M.C.*, No. 23-450 (dispositional order and removal order). The state courts' failure to focus on any constitutional rights is reflected in the court's brief orders, which do not address at all, let alone rule upon, any First Amendment issues present in the removal and disposition. See Pet. App. at 40a-49a, *M.C.*, No. 23-450.

The district court dismissed the complaint under the *Rooker-Feldman* doctrine. Although the court acknowledged that the Coxes were not directly challenging the state court judgment, it held that their claims were “inextricably intertwined” with the CHINS proceeding, therefore *Rooker-Feldman* barred all their claims. Order at 8-13, *Cox*, No. 23-cv-957, Dkt. No. 59. The court went on to reject the Coxes’ argument that they had no adequate avenue to raise their constitutional claims in the state proceeding. The court reasoned that the Coxes had the opportunity to put on witnesses and engage in cross-examination, and they had appealed to state courts and petitioned for certiorari in this Court, and therefore they had been given adequate opportunity to raise their claims. *Id.* at 13-16 (citing *Brokaw v. Weaver*, 305 F.3d 660 (7th Cir. 2002)).

The district court’s ruling illustrates the difficulty of vindicating federal rights in federal court after a prior state child welfare proceeding. Courts hearing such cases have wrestled with the question of when and under what circumstances *Rooker-Feldman* applies. See *Brokaw*, 305 F.3d at 664-669 (surveying cases); see also *Gilbank v. Wood Cnty. Dep’t of Hum. Servs.*, 111 F.4th 754, 784-785 (7th Cir. 2024) (en banc) (disapproving *Brokaw*’s fraud exception but approving its “reasonable opportunity” exception).

In the Coxes’ case, the state courts held that the Coxes’ challenge to the initial removal decision was mooted by the later unsubstantiation and CHINS proceeding. See *supra* ___. They never rendered a determination on the lawfulness of that action. See *In re A.C.*, 198 N.E.3d at 8-9. The Coxes’ later attempt to seek damages for the harm done by that removal was then

barred because they had litigated the claims in state court—in a proceeding where, at the time, no damages remedy was available to them. See *infra* at 14 (discussing later changes to Indiana law).

This left the Coxes with no remedy for the unlawful removal of their child from their custody and a placement in a home specifically selected because it contradicted the Coxes' religious beliefs.

DCS's actions not only inflicted irreparable harm as they unfolded, but the intentional severing of the parent-child relationship has inflicted harm that continues to this day, as all of the Coxes' attempts at reconciliation have been rejected. The state set into motion a profound rift within the Cox family that, due to prolonged absence and restraints on how the Coxes could speak to their own child, might now never be healed.

II. The Coxes' story illustrates that harms to parental rights are concrete and imminent here.

The Coxes' case shows the harm done to families when procedural safeguards are not in place. That's doubly true in Washington, which lacks even the procedures given to the Coxes, who were at least notified of the reasons—accurate or otherwise—that their child was removed from their custody and were given a chance, however inadequate, to appear in the court proceedings. Their experience shows how quickly harm to parental rights can occur and how difficult it can be to remedy after the fact. This pattern is likely to repeat in Washington and other states that have restricted parental rights by statute.

A. Washington and other states are passing laws that weaken parental rights.

Under Indiana law, the child’s allegations about the parents’ *religious speech* alone—absent any allegation of actual physical harm—was sufficient to remove the child from the home. And if the question is whether the child is a danger to herself or to others (the circumstances of a CHINS-6 proceeding), the court need not even seek the parents’ views in order to keep the child out of the home, as in the Coxes’ case. Ind. Code § 31-34-1-6. This means that when a teen and his parents disagree over issues of gender identity, the teen can obtain judicial intervention by claiming to be a danger to himself, pointing to the conflict as a source of mental distress.

To its credit, since the Coxes’ ordeal, Indiana has adopted a cause of action giving parents recourse to sue the state for injunctive and other relief in similar future situations. See Ind. Code § 31-42-1-4; 2025 Ind. Acts 1186-1191 (2025 parental rights legislation). The CHINS statute has also been amended to clarify that “[a] child is not a child in need of services under any section of this chapter”—including CHINS-6—“due to the child’s parent, guardian, or custodian referring to and raising the child consistent with the child’s biological sex.” Ind. Code § 31-34-1-17. The Coxes themselves were proponents of this law, testifying before a legislative committee and speaking personally with legislators to explain the need for improved procedural safeguards for parental rights.

But other states have moved in the opposite direction. In 2022, California enacted a law that grants state courts “emergency jurisdiction” over children who are present in the state if “it is necessary in an

emergency to protect the child because the child * * * has been unable to obtain gender-affirming health care.” Cal. Fam. Code § 3424(a). That “[g]ender-affirming health care” may include puberty blockers, cross-sex hormones, or even surgical interventions. See Cal. Welf. & Inst. Code § 16010.2(3)(A).

In 2023, Minnesota similarly amended its emergency jurisdiction statute, which previously only applied in cases of abandonment, abuse, or threatened abuse, to provide that “[a] court of this state has temporary emergency jurisdiction if the child is present in this state and * * * the child has been unable to obtain gender-affirming health care.” Minn. Stat. § 518D.204(a); see also 2023 Minn. Sess. Law Serv. Ch. 29 (West) (showing alterations from prior version). Minnesota defines “gender-affirming health care” broadly, including suppression of puberty, interventions that change one’s appearance, and generally any intervention that would “alleviate the patient’s symptoms of clinically significant distress” over their biological sex. Minn. Stat. § 543.23(b).

Without even removing children from the home, Oregon permits minors as young as 15 to receive a wide variety of medical services, treatments, and even surgical procedures “without the consent of a parent or guardian” at all. Or. Rev. Stat. § 109.640. It even permits 15-year-olds to consent to sterilization. See *id.* § 436.205(2).

In addition to stripping rights from natural parents, some states have also made it harder to qualify as foster or adoptive parents. Multiple states have denied foster care licenses to families who have religious beliefs like the Coxes’, forcing hopeful adoptive and foster parents to litigate for the right to care for and

adopt children. Most of these cases are still ongoing. The Ninth Circuit ruled in favor of a prospective adoptive mother in Oregon who “objected to using adopted children’s preferred pronouns or taking them to medical appointments for gender transitions.” *Bates v. Pakseresht*, 146 F.4th 772, 776 (9th Cir. 2025). The Third Circuit likewise allowed a case to proceed in New Jersey, where “foster parents with religious views against same-sex marriage and homosexual conduct had their foster child removed and their foster license suspended.” *Lasche v. New Jersey*, No. 20-cv-2325, 2022 WL 604025, at *1 (3d Cir. Mar. 1, 2022).

Similar stories have unfolded in Massachusetts, Vermont, and Washington. For instance, in Massachusetts, Michael and Catherine Burke were denied a foster care license after the Department of Children and Families wrote: “Based on this famil[y’s] beliefs about children who identify as LGBTQIA+ * * * the Department is unable to issue a license for them to foster/adopt at this time.” Ex. AA at 60, *Burke v. Walsh*, No. 23-cv-11798 (D. Mass. Mar. 13, 2026), Dkt. No. 172-27. Other families in the state also had their licenses non-renewed or threatened after they refused to sign an agreement to “[s]upport, respect, and affirm the foster child’s sexual orientation, gender identity, and gender expression.” Compl. at 14, *Jones v. Mahaniah*, No. 25-cv-12449 (D. Mass. Sep. 3, 2025), Dkt. No. 1. The state of Vermont entered into a consent decree agreeing to change its policies after Vermont revoked a foster license based on a foster family’s “failing to, among other things, commit to facilitating the social and medical transition of a hypothetical foster child.” *Antonucci v. Winters*, 767 F. Supp. 3d 122, 132 (D. Vt. 2025), vacated and appeal dismissed, No. 25-cv-514,

2026 WL 623319 (2d Cir. 2026); Joint Stipulation and Final J. Order at 2-3, No. 24-cv-783, Dkt. No. 64.

It should come as no surprise that Washington is one such state; it denied otherwise fit relatives a foster care license because of “[t]heir answers to a series of hypotheticals involving a foster child who might in the future develop or identify as LGBTQ+.” *Blais v. Hunter*, 493 F. Supp. 3d 984, 989 (E.D. Wash. 2020). That couple applied for a license because they wanted to care for a biological family member who was only a few months old. *Ibid.* Washington now uses an individualized exemption provision to grant waivers for some families, but still generally requires that foster families agree to enable gender transitions. See Wash. Admin. Code § 110-148-1630 (exceptions); *Id.* § 110-148-1520 (“You must support a foster child’s SOGIE [sexual orientation, gender identity and expression] by using their pronouns and chosen name, and respecting the child’s right to privacy concerning their SOGIE.”).

Thus, when a child is placed into foster care, some of the same states that erode parental rights on the front end erode them on the back end, too. States ensure that a social transition continues, even if that is contrary to the parents’ religious practices. This is what happened with the Coxes. Pet. at 12 (“The trial court * * * placed A.C. in a home that would refer to A.C. using cross-gender pronouns and a cross-gender name”), Pet. App. at 127a, *M.C.*, No. 23-450 (“she should be in a home where she is [ac]cepted for who she is”). The harm to parents is thus immediate as soon as the state gets involved.

B. Parental rights cases involving teens are subject to mootness, preclusion, and abstention traps.

Cases involving gender identity and child welfare present unique traps for the unwary. Begin with mootness, as exemplified by the Coxes' saga.

Once proceedings with the state began, the Coxes moved expeditiously at every juncture to return A.C. to their home and vindicate their parental rights. After A.C.'s removal, the Coxes engaged in good-faith negotiations to end the case. They successfully convinced DCS to voluntarily dismiss all allegations against them, to deem all neglect and abuse allegations against them unsubstantiated, and to expunge the record of all reports related to them. Yet A.C. was still kept out of their home while their appeals proceeded, lasting an additional year, through his eighteenth birthday.

The Coxes' story is thus a cautionary tale as to how the necessarily time-bound nature of custody disputes can enable governments like Washington's to violate parental rights with impunity. Because "a period of two years is too short to complete judicial review," *Kingdomware Techs. v. United States*, 579 U.S. 162, 170 (2016), government actors can weaponize mootness doctrine by throwing up procedural roadblocks, waiting for a child to turn eighteen, and then arguing mootness. This danger is even more present in Washington, where the law places no timeline on reunification. Pet. Br. 14.

Preclusion and abstention doctrines present additional problems in states that do not permit damages

remedies for unlawful removals. In the state court removal proceedings, the Coxes had limited means to raise their federal constitutional claims. So they brought suit in federal court, but there the state argued that the Coxes' federal lawsuit for backward-looking relief was barred by *res judicata*. Mot. to Dismiss at 10, *Cox*, No. 23-cv-957, Dkt. No. 33. The Coxes thus found themselves “in a Catch-22: [They] cannot go to federal court without going to state court first; but if [they] go[] to state court and lose[], [their] claim will be barred in federal court.” *Knick v. Township of Scott*, 588 U.S. 180, 184-185 (2019).

The district court did not rule on preclusion grounds, but instead dismissed the complaint under *Rooker-Feldman*, even though the court acknowledged that the Coxes were not directly challenging the state court judgment. Order at 8-13, *Cox*, 23-cv-957, Dkt. No. 59. And in the state court proceedings, the courts never ruled on the lawfulness of the initial removal proceedings. See *In re A.C.*, 198 N.E.3d at 8-9 (holding challenge to initial proceeding moot). In other words, the federal lawsuit was barred because the Coxes had a state court appeal that never conclusively adjudicated their federal claims. While avoiding a preclusion trap, the Coxes fell victim to an abstention trap.

While the legal doctrines in the Coxes' case are different from the ones invoked here, the Coxes' experiences confirm the dangers of Washington's law. The statute supplants parents' decision-making authority regarding their children's medical decisions by authorizing gender-affirming treatment for runaway minors without their parents' knowledge. Wash. Rev. Code § 13.32A.082(1)(b)(i), (2)(c)(ii), & (3)(b)(i); see also Pet.

App. 52a. This deprives Washington parents of even the inadequate procedures granted to the Cox family.

Although parents are typically entitled to prompt notice regarding the whereabouts of a runaway child, Washington’s law forbids licensed shelters from notifying parents of a runaway gender-confused minor. Wash. Rev. Code § 13.32A.082(1)(b)(i), (3)(b). And even if the state decides to notify parents, it is no longer required to detail the child’s location or condition. *Id.* § 13.32A.082(3)(a) (only requiring “notify[ing] the parent that a report has been received”). And on top of all that, Washington’s law grants the state discretion to decide when reunification is warranted, allowing it to significantly delay parent-child reunification. *Id.* § 13.32A.082(3)(b)(ii). The Coxes’ experience demonstrates the harms that can occur when reunification is delayed.

The delays and deliberate concealment of information in Washington’s statutory scheme thus entrench the harm to parents’ right to direct the upbringing of their child. The law removes parents from the equation and speeds children along the path toward a gender transition, even when parents have sincere religious beliefs and medical concerns that a gender transition is not in the best interest of their child.

It is very likely that as the built-in delays prolong the separation between parents and a child, the rupture will prove irreparable—both to parents’ fundamental rights and to their relationship with their child. But the lower court’s tortured reading of standing would require parents to endure that irreparable injury before they could vindicate their rights in federal court. It also raises the question of when the state

might attempt to invoke abstention doctrines to prevent later federal court challenges. And it is probable that, even if parents succeed in establishing standing, their children will age out of the system before litigation runs its course, meaning that Washington will then claim that any dispute is moot.

C. The harm to fundamental rights is real, concrete, and imminent.

“[T]he interest of parents in the care, custody, and control of their children” is among “the oldest of the fundamental liberty interests.” *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (plurality opinion). “[T]he state can neither supply nor hinder” the “cardinal” role of fit parents in “the custody, care and nurture of the child.” *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944). This includes “the right not to be shut out of participation in decisions regarding their children’s mental health.” *Mirabelli v. Bonta*, 607 U.S. 492, 497 (2026) (citing *Parham v. J.R.*, 442 U.S. 584, 602 (1979)).

Moreover, “the burden of litigating a domestic relations proceeding can *itself* be ‘so disruptive of the parent-child relationship that the constitutional right of a custodial parent to make certain basic determinations for the child’s welfare becomes implicated.’” *Troxel*, 530 U.S. at 75 (emphasis added). This is especially true with respect to parents’ right to direct the *religious* upbringing of their children. That’s because “the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Mahmoud v. Taylor*, 606 U.S. 522, 569 (2025) (cleaned up). Furthermore, it is not only the ultimate rulings that can burden parents’ religious rights, “but also the very process of inquiry leading” to those determinations. *NLRB v. Catholic Bishop of*

Chicago, 440 U.S. 490, 502 (1979); see also *Mirabelli*, 607 U.S. at 497 (“The denial of plaintiffs’ constitutional rights during the potentially protracted appellate process constitutes irreparable harm.” (citing *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020) (per curiam))).

In recent years, this Court has consistently confirmed these principles when addressing policies implicating matters of parental rights and human sexuality. In *Mahmoud v. Taylor*, this Court concluded that the Montgomery County School Board’s decision to introduce “LGBTQ+-inclusive” storybooks—combined with its decision to withhold notice to parents and to forbid opt outs—substantially interfered with parents’ right to educate their children in their religious beliefs. 606 U.S. at 550. Indeed, “the Free Exercise Clause protects against policies that impose more subtle forms of interference with the religious upbringing of children.” *Id.* at 548.

And in *Mirabelli*, this Court applied *Mahmoud* to a California policy that prevented schools from telling parents about their children’s social transitions at school, unless the children consented to parental notification, and required schools to facilitate transitions against parental objections. 607 U.S. 492. The Court easily held that the policy violated the Free Exercise Clause, as “the intrusion on parents’ free exercise rights here—unconsented facilitation of a child’s gender transition—is greater than the introduction of LGBTQ storybooks we considered sufficient to trigger strict scrutiny in *Mahmoud*.” *Id.* at 496.

This Court’s precedents make this an *a fortiori* case. The rights of parents to direct the religious upbringing of their children “extends to the choices that

parents wish to make for their children outside the home,” but at its core, it protects “a right to teach religion in the confines of one’s own home.” *Mahmoud*, 606 U.S. at 547. But here, Washington law creates incentives for gender-confused children who disagree with their parents’ religious beliefs to leave home and seek shelter, knowing their location will remain hidden from their parents, without any need to establish anything in court. As alleged here, Petitioners must eschew imparting their religious beliefs to their children or face the very real possibility that their children will leave their homes to obtain what the state markets as “gender-affirming care.” Pet. Br. 17, 43-44.

And as in *Mirabelli*, Washington’s law creates a pathway for the state to nullify and override parental decision-making about what is best for their own children. Washington’s law “intru[des] on parents’ free exercise rights” by requiring “unconsented facilitation of a child’s gender transition,” without any ability for parents to obtain information. *Mirabelli*, 607 U.S. at 496. And it supplants parents’ fundamental right and “‘high duty’ to recognize symptoms of illness and to seek and follow medical advice” by deliberately preventing parents from receiving information regarding their child and any “gender-affirming” treatment or procedure the child receives. *Parham*, 442 U.S. at 602.

The Ninth Circuit said that these injuries were “self-inflicted,” non-imminent, and “contrive[d].” Pet. App.15a, 20a. But the very object of the law is to keep parents in the dark in order to facilitate a child’s gender transition. Wash. Rev. Code § 13.32A.082(1)(b)(i), (2)(c)(ii), (3)(b)(i); Pet. Br. 12-15. And the harm to parents’ constitutional rights is already occurring, as Washington’s statutory scheme creates a workaround

to parental consent and incentivizes minors to seek and obtain these controversial services over their parents' objections.

This Court should refuse to bless the lower courts' warped understanding of Article III that is currently inflicting irreparable harm on parents' fundamental right to direct the religious upbringing of their children. "The requirements of standing are strict, but they are not cruel." Pet. App. 55a.

CONCLUSION

The decision below should be reversed.

Respectfully submitted.

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