

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 FOR RESPONDENTS

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QUESTION PRESENTED

In 2023, Washington State transferred the responsibility to notify parents about certain runaway youth from licensed homeless shelters to the state's child welfare agency, which also must offer voluntary family reconciliation services and behavioral health referrals to the youth and their family. Petitioners are parents and organizations who challenged the revised laws, basing their claim of injury on their worry that, at some point in the future, their children might run away, then might seek refuge with a licensed shelter, then might decline reconciliation services, then might accept a referral for behavioral health services, and then might ultimately receive healthcare services they oppose. Petitioners alleged that this potential chain of events affected their parental rights, free speech rights, and free exercise rights. The lower courts dismissed this case for lack of Article III standing, finding that the current harms Petitioners alleged were self-imposed, and that the theoretical chain of events Petitioners feared was too speculative to show that the challenged laws have injured or will likely injure them.

The question presented is:

Whether Petitioners have standing to challenge laws that impose no obligations on them based on speculation that the laws may someday affect them?

PARTIES TO THE PROCEEDING

Petitioners are International Partners for Ethical Care, Inc., Advocates Protecting Children, and Parents 1A, 1B, 2A, 2B, 3A, 3B, 4A, 4B, 5A and 5B. They were plaintiffs in the District Court for the Western District of Washington and appellants in the Ninth Circuit Court of Appeals.

Respondents are Robert Ferguson, Governor of Washington; Nick Brown, Attorney General of Washington; and Tana Senn, Secretary of the Washington Department of Children, Youth, and Families, having been substituted according to Federal Rule of Appellate Procedure 43 for Jay Inslee, Governor of Washington; Robert Ferguson, Attorney General of Washington; and Ross Hunter, Secretary of the Washington Department of Children, Youth, and Families. They were defendants in the District Court for the Western District of Washington and appellees in the Ninth Circuit Court of Appeals.

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INTRODUCTION

Petitioners are trying to sell this Court a bill of goods. Their briefing misrepresents Washington law and the facts here in critical ways. Even with those misrepresentations, they still have to ask this Court to throw out black letter standing law to allow their claims to proceed. The Court should decline their request and either affirm the lower courts or dismiss this case as improvidently granted.

Petitioners assert standing based on a chain of speculation culminating in a lie about Washington law. Their theory is that *if* one of their children: (1) ran away (which none of the remaining plaintiffs ever has); (2) ended up at a licensed youth homeless shelter (same); and (3) sought gender-affirming care (same again), then the State would provide their child such care without informing them, creating incentives for their children to run away.

Setting aside the many speculative steps in this chain, the whole premise is false because nothing in the laws they challenge allows the State to provide gender-affirming care to runaway minors. Under Washington law, if a minor runs away to a licensed homeless shelter and is seeking gender-affirming care, the State offers the minor only contact information for mental health providers, information readily available online. The State does not pay for any services, offer transportation to them, or otherwise facilitate their provision in any way. The idea that a minor would run away from home to obtain information they could easily find online is ludicrous. Not a single minor has made use of these laws to seek gender-affirming care since their amendment in 2023.

Given Petitioners' misrepresentations and the concession in their merits brief that nearly all of their claims are moot, the simplest resolution here would be to dismiss this case as improvidently granted. But if the Court reaches the merits, it should affirm.

This Court has long held that Article III imposes three requirements for a plaintiff to have standing: injury, causation, and redressability. *Lujan v. Defs. of Wildlife*, 504 U.S. 555 (1992). Most relevant here, the plaintiff must show that their alleged injury “is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical.” *Id.* at 560 (citation modified).

Petitioners fail this burden. They admit that none of their children has invoked the laws they challenge. They nonetheless claim that the laws are currently harming them by causing them to alter their “parenting styles” and what they say around their children. This Court has routinely rejected such arguments based on self-imposed changes in behavior, *see, e.g., Clapper v. Amnesty International USA*, 568 U.S. 398 (2013), and if changes in parental behavior in reaction to hypothetical harm suffice to show standing, then parents can sue about *anything*.

Petitioners also assert that they will suffer future injuries from the challenged laws, but there is only one set of plaintiff parents left (2A and 2B) with non-moot claims, and their allegations come nowhere close to showing that these laws will ever affect them. The theoretical possibility that their child could be the first ever to use these laws as they fear fails to show “actual or imminent” injury. *Lujan*, 504 U.S. at 560.

Unable to satisfy this Court’s settled standing test, Petitioners propose a new rule under which anyone who is the “object” of a law can challenge it, even without concrete or particularized harm. Setting aside that Petitioners never raised this argument below, it flies in the face of precedent. Indeed, the United States as *amicus curiae* declines to endorse this theory, and Petitioners’ own counsel in the courts below filed an *amicus* brief here *opposing* this theory. *See* Am. First Legal Found. Amicus Br. 25 (“[A]n ‘object’ of a challenged policy (whatever that means) is not excused from his obligation to plead and prove the components of Article III standing—injury in fact, traceability, and redressability.”).

While rejecting Petitioners’ novel, unworkable theory, the United States offers its own: a special standing rule only for substantive due process claims based on parental rights. Under that theory, “parents suffer an immediate, concrete, and cognizable harm as soon as the government alters th[eir] authority[.]” U.S. Amicus Br. 21-22. No court has ever endorsed that rule, which would eviscerate standing doctrine. The United States also ignores the need to define the alleged substantive due process right at issue with specificity. Most states have long allowed some minors to consent to mental health treatment (the only treatment at issue here) without parental consent, and since the founding most States have allowed minors to make even more consequential decisions (such as whether to marry). Have all such laws always been unconstitutional? The federal government’s theory fails.

This Court should affirm or dismiss.

STATEMENT

A. Homeless Youth Face Threats on the Streets, Yet Often Avoid Licensed Shelters

Hundreds of thousands of unaccompanied youth experience homelessness each year.¹ Young people experiencing homelessness are far more likely than other youth to experience mental health and substance abuse disorders, sexual exploitation, trafficking, and other victimization.²

LGBTQ+ youth are more than twice as likely to experience homelessness as their heterosexual or cisgender peers.³ They experience particularly high levels of adversity and victimization among homeless youth, and are more likely to engage in survival sex or be trafficked than non-LGBTQ+ youth.⁴

¹ National Center for Homeless Education, *Student Homelessness in America: School Years 2017-18 to 2019-20* (2021), <https://nche.ed.gov/wp-content/uploads/2021/12/Student-Homelessness-in-America-2021.pdf>.

² Thresia B. Gambon et al., *Runaway Youth: Caring for the Nation's Largest Segment of Missing Children*, 145 PEDIATRICS (2020).

³ Matthew H. Morton et al., *Missed Opportunities: LGBTQ Youth Homelessness in America*, Chapin Hall at the University of Chicago (2018), https://www.chapinhall.org/wp-content/uploads/ChapinHall_VoYC_NationalReport_Final.pdf.

⁴ See The Trevor Project, *Homelessness and Housing Instability Among LGBTQ Youth* (2021), <https://www.thetrevorproject.org/wp-content/uploads/2022/02/Trevor-Project-Homelessness-Report.pdf>.

The vast majority of unaccompanied homeless youth do not stay in licensed shelters, instead staying temporarily with friends or extended family or remaining unsheltered.⁵ LGBTQ+ youth are especially likely to end up on the streets.⁶

B. Washington Has Long Required Parental Notification Regarding Runaway Youth, With Multiple Avenues for Notification

When a minor runs away from home, many states have no law requiring parental notification.⁷ Washington, however, has long required parental notification, which can take a variety of forms.

For decades, Wash. Rev. Code § 13.32A.082 required homeless shelters to “report the location of the child to the parent, the law enforcement agency of the jurisdiction in which the person lives, *or* the department [of children, youth, and families].” 1995 Wash. Sess. Laws, ch. 312, § 34(1) (emphasis added). If the Department received such a report, it had to “make a good faith attempt to notify the parent that a report has been received and offer services designed to resolve the conflict and accomplish a reunification of the family.” 1996 Wash. Sess. Laws, ch. 133, § 14(3).

⁵ National Center for Homeless Education, *supra* note 2.

⁶ *Id.*

⁷ See, e.g., Youth Homelessness Index, *State Index on Youth Homelessness* (Sept. 2025), <https://perma.cc/J24E-KFNJ> (citing statutes).

In 2013, the Legislature amended Wash. Rev. Code § 13.32A.082 to distinguish licensed shelters from other locations. Other locations remained subject to the requirement to notify parents, law enforcement, or the Department. But licensed shelters were now required to notify a youth’s parents themselves within seventy-two hours of the youth’s admission. 2013 Wash. Sess. Laws, ch. 4, § 2. The provision made an exception, however, for “compelling reasons,” including “circumstances that indicate that notifying the parent or legal guardian will subject the minor to abuse or neglect[.]” *Id.* In those instances, licensed shelters were to notify the Department, which was then required to notify parents and offer services to help resolve the conflict. *Id.*

C. Washington Updated its Laws Regarding Runaway Youth in 2023, Still Requiring Parental Notification

In 2023, the Legislature enacted Substitute House Bill (SHB) 1406, 68th Leg., Reg. Sess. (Wash. 2023), *enacted as* 2023 Wash. Sess. Laws, ch. 151, and Engrossed Substitute Senate Bill (ESSB) 5599, 68th Leg., Reg. Sess. (Wash. 2023), *enacted as* 2023 Wash. Sess. Laws, ch. 408, further amending Wash. Rev. Code § 13.32A.082.

SHB 1406 passed unanimously. It provides that when a licensed shelter is unable to contact a youth’s parent or the parent does not request their child be returned home, the youth may stay in the shelter for up to ninety days. 2023 Wash. Sess. Laws, ch. 151, § 2. Before the amendment, youths whose parents either could not be contacted or did not want

them home arguably had to be evicted after seventy-two hours. SHB 1406 fixed this problem. It also provided that if a minor remains in a shelter under these circumstances, the shelter must contact the Department, which must offer family reconciliation services within seventy-two hours. Wash. Rev. Code § 13.32A.082(3)(a).

ESSB 5599, meanwhile, encouraged youth experiencing unsheltered homelessness to instead engage with licensed shelters. *See* 2023 Wash. Sess. Laws, ch. 408, § 1. The bill text and legislative history recognized that many transgender youth were choosing to remain on the streets instead of accessing safer licensed shelters, and it attempted to “remove barriers” to seeking licensed shelter for those youth. *Id.*; *see also* House Floor Debate on ESSB 5599 (Wash. Apr. 12, 2023), at 2:32:07-2:33:45, TVW, <https://tvw.org/video/house-floor-debate-april-12-2023041141/?eventID=2023041141> (Representative Cortes explaining that the bill will let youth know “they have a safe place to go” and that one barrier for some youth was fear that the shelter would contact their parents).

As part of this effort, the Legislature revised parental notification requirements for licensed shelters to return to a system more like what had been in place for decades before the 2013 amendments. Specifically, if a young person seeking reproductive healthcare or gender-affirming care shows up to a licensed youth shelter, the shelter must contact the Department instead of contacting the youth’s parents directly, just as the State allowed prior to 2013. Wash. Rev. Code § 13.32A.082(1)(b)(i). *Supra* p. 6. The

Department must then attempt to notify parents, offer family reconciliation services,⁸ and offer to make referrals on behalf of the youth for behavioral health services.⁹ Wash. Rev. Code § 13.32A.082(3)(a). Thus, ESSB 5599 gives the Department an opportunity to connect particularly vulnerable youth and their families to additional, voluntary services. *See* House Floor Debate at 48:03-48:55 (remarks of Representative Rule: “We have an obligation to protect [homeless youth] and to support them and their families.”). As Representative Taylor put it: “This bill is about bringing [Washington] kids home.” House Floor Debate at 33:09-13.¹⁰

As amended, Washington’s laws regarding runaway minors still require *more* notice to parents than many States,¹¹ including several of Petitioners’

⁸ “Family reconciliation services” are “services . . . designed to assess and stabilize the family with the goal of resolving crisis.” Wash. Rev. Code § 13.32A.030(12).

⁹ “‘Behavioral health services’ means mental health services, substance use disorder treatment services, and co-occurring disorder treatment services” Wash. Rev. Code § 71.24.025(11).

¹⁰ Petitioners selectively quote Representative Taylor’s remarks to mischaracterize her goal as “saving kids from their parents by replacing parents with the State.” Pet’r’s.Br.10-11. But Petitioners omit that she was referencing kids who have been kicked out of their homes—whose parents tell them “you cannot be here,” who “can’t go home,” and are “in the middle of the cold.” House Floor Debate at 1:42:32-1:45:03. It is in these circumstances that Representative Taylor insisted that the Department “step in” to “provide a place for this child.” *Id.*

¹¹ *See* Youth Homelessness Index, *supra* note 7.

amici, which allow shelters to notify a state agency instead of parents in *all cases*,¹² or require no parental notification at all for some minors.¹³

Nothing in the 2023 amendments permits the Department to withhold any information from parents. Wash. Rev. Code § 13.32A.082(3)(a) still requires the Department to “make a good faith attempt to notify” parents whenever it receives a report of a runaway youth. To this end, the Department’s memorandum implementing ESSB 5599 instructs employees to “[m]ake [a] good faith attempt to contact the youth’s parent or legal guardian to offer [family reunification services,]” and to “[d]ocument” the steps they took to do so. BIO.App.3a-4a. These good faith efforts “must” include, “at minimum,” requesting contact information from the youth or shelter and searching the Department’s database “for any prior child welfare history and contact[ing] the most recent contact information for a parent or legal guardian.” *Id.* These minimum requirements generally exceed what a licensed shelter can do because shelters lack access to the Department’s database.

Department policy also directs that its “[c]aseworkers must . . . [c]ontact the family within twenty-four hours of being assigned the case, excluding weekends and holidays, to schedule an interview and assessment.” BIO.App.6a; *see also* BIO.App.2a. Thus, the Department generally requires

¹² *See, e.g.*, Alaska Stat. § 47.10.394; Utah Code § 80-5-602.

¹³ *See, e.g.*, Tex. Fam. Code §§ 32.201, .202, .203.

parental notification within the same 24-72-hour period previously applicable to licensed shelters. *See* Wash. Rev. Code § 13.32A.082(1)(b)(i). And Wash. Rev. Code § 13.32A.082(5) explicitly provides that “[n]othing in this section prohibits any person . . . from immediately reporting the identity and location of any minor . . . more promptly than required under this section.”

These notice requirements dovetail with other notice requirements throughout Wash. Rev. Code § 13.32A.082 and related laws. *See* Pet.App.5a-6a. For example, the requirement that the Department “[o]ffer services designed to . . . accomplish a reunification of the family[.]” Wash. Rev. Code § 13.32A.082(3)(b)(ii), necessarily requires the Department to notify the minor’s parents. Moreover, Wash. Rev. Code § 13.32A.082(1)(b)(ii) continues to require shelters to check the Washington State Patrol’s missing children database “[a]t least once every eight hours” and notify the Department “immediately” if a minor in the shelter has been reported missing—regardless of whether that minor is seeking protected healthcare.

The law does not require (or permit) the Department to “den[y]” parents “information about their child’s location or condition.” *Contra* Pet’r’s.Br.13. Rather, the Department may only withhold information about a minor’s whereabouts and condition if it determines “that release of this information is likely to cause severe psychological or physical harm to the juvenile[.]” Wash. Rev. Code § 13.50.100(7)(a). Thus, as amended, Washington’s law does not deny any information to parents, it merely changes who notifies the parents—the

Department as opposed to a licensed shelter—giving the Department an opportunity to offer services to vulnerable youth and their families to hopefully begin a reunification process.

Nothing in the 2023 laws authorizes the Department to take custody of a minor. *Contra* Pet’rs’.Br.14. When the Department notifies a parent—as required by law—that their child is in a licensed shelter, the parent is free to pick up their child immediately. This is true regardless of whether the youth or their parents choose to engage in services offered by the Department. *Contra* Pet’rs’.Br.14-15. Under long-established Washington law, the Department may only take custody of a minor where *a court* finds “that there are reasonable grounds to believe that removal is necessary to prevent imminent physical harm to the child due to child abuse or neglect[.]” Wash. Rev. Code § 13.34.050; *see* Wash. Rev. Code § 13.34.060(1).

Washington law also does not “‘treat[] the parents of children suffering from gender dysphoria as per se neglectful or abusive[.]’” *Contra* Pet’rs’.Br.6 (quoting Pet.App.38a). Abusive and neglectful parents can be temporarily denied information about their children’s whereabouts and even lose custody. *Supra* pp. 10-11. Not so for parents whose kids are seeking protected health care.

D. Nothing in Washington’s Revised Laws Allows the State to Provide Gender-Affirming Care to Runaway Minors

Nothing in the laws at issue here permits the Department to provide gender-affirming care to minors. As amended, the law merely requires the Department to offer voluntary *referrals* for “behavioral health services.” Wash. Rev. Code § 13.32A.082(3)(b). “‘Behavioral health services’ means mental health services, substance use disorder treatment services, and co-occurring disorder treatment services” Wash. Rev. Code § 71.24.025(11). It does not include medical services like puberty blockers or hormone replacement therapy. *Id.* And “referrals” simply means information about services—information that is already available to anyone with an internet browser. *See* Wash. State Dep’t of Children, Youth & Families, *Mental Health Referral Service for Children and Teens*, <https://perma.cc/AR8M-VGGY> (last visited Oct. 18, 2026). Nothing more.

Even as to “behavioral health services,” the law does not require or allow the Department to provide such services, contact providers, schedule appointments, or pay for any services. *See* Wash. Rev. Code § 13.34.315 (the Department may only “authorize . . . routine and necessary medical, dental, or mental health care” when “a child is ordered removed from his or her home” by a court). And nothing in either law restricts parents’ input in decision-making or compels treatment for youth.

Thus, nothing in either 2023 law changes minors’ access to gender-affirming care, as even the law’s opponents admit. *See, e.g.*, Senate Floor Debate on ESSB 5599 (Wash. Mar. 1, 2023), at 1:12:26-1:12:32, TVW, <https://tvw.org/video/senate-floor-debate-march-1-2023031100/?eventID=2023031100> (Senator Braun, Republican Minority Leader, saying: “[T]his underlying bill . . . isn’t about access to this care, which wouldn’t change with this amendment.”).

In short, the amendments simply alter *who* notifies parents when youth end up at licensed shelters and requires the Department to offer services to youth and their families (which they can accept or reject).

E. Washington’s Revised Notification Laws Have Never Been Used

In the more than three years since SHB 1406 and ESSB 5599 passed, licensed shelters have contacted the Department *zero times* about a runaway youth seeking gender-affirming care or pregnancy care. *See* Wash. State Dep’t of Children, Youth & Families, *Licensed Homeless Shelters*, <https://perma.cc/SSQ3-RTEA> (last visited Oct. 18, 2026). For context, the Department received over 185 calls from licensed shelters during this period about other situations requiring notice to the Department, such as abuse or neglect. *Id.*

F. Washington’s Age of Consent Law for Outpatient Mental Health Services

Petitioners also challenge Wash. Rev. Code § 71.34.530 insofar as they contend it interacts with ESSB 5599 to afford runaway youths a pathway to receive gender-affirming care. *See* Pet’rs’.Br.12, 40.

Wash. Rev. Code § 71.34.530 allows adolescents thirteen and older to “request and receive outpatient [behavioral health] treatment without the consent of the adolescent’s parent.” Wash. Rev. Code § 71.34.530; *see also* Wash. Rev. Code § 71.34.020(46) (defining “outpatient treatment” to include only behavioral health treatment). But it does not permit minors to consent to medical care like puberty blockers or hormone replacement therapy. And it does not block parents from accessing records about their children’s care. Washington law allows providers to disclose “all information and records related to mental health services” to a “minor’s parent.” Wash. Rev. Code § 70.02.240; *see also* Wash. Rev. Code § 71.34.430 (permitting providers to “release mental health information about an adolescent to a parent of the adolescent without the consent of the adolescent”).

Washington passed this law in 1985, toward the tail end of a decades-long trend by States to permit minors to consent to mental health care and health care more generally. Idaho passed the first such law in 1951, permitting minors as young as fourteen to consent to mental health hospitalization. Hannah L. Brown et al., *History of Minor Consent Laws for Mental Health Treatment in the US*, JAMA HEALTH FORUM (Apr. 24, 2026), <https://jamanetwork.com/journals/jama-health-forum/fullarticle/2847947>. In

1956, Rhode Island became the first state to pass a statute permitting minors to consent to health care more generally. *Id.* And over the next three decades—as this Court was recognizing minors’ rights in cases like *In re Gault*, 387 U.S. 1 (1967), and *Goss v. Lopez*, 419 U.S. 565 (1975)—dozens of states passed similar laws. Today, over thirty-five states allow minors to consent to mental health care in some form, including many of the amici states supporting Petitioners. *See* BIO.App.14a-32a.

G. Proceedings Below

Five sets of parents and two organizations, International Partners for Ethical Care, Inc. (IPEC) and Advocates Protecting Children (APC), sued various Washington officials, facially challenging ESSB 5599, SHB 1406, and Wash. Rev. Code § 71.34.530 under the Due Process Clause, Free Speech Clause, and Free Exercise Clause. Pet.App.66a-148a.

Parents 1A and 1B alleged that their child, 1C, “express[ed] signs of gender dysphoria at school,” but did not allege that 1C has sought gender-affirming care, run away, or threatened to do so. Pet.App.70a-72a. 1C will turn 18 before this Court renders judgment. Pet’rs’.Br.18 n.13.

Parents 2A and 2B alleged that their child, 2D, “socially transitioned” at school “without her parents’ knowledge[,]” but did not allege that 2D has sought gender-affirming care or run away. Pet.App.72a-73a.¹⁴

Parents 3A and 3B alleged that their child, 3C, “struggles with gender identity issues,” but did not allege that 3C has sought gender-affirming care, run away, or threatened to do so. Pet.App.73a-75a. As with 1C, 3C will turn 18 shortly after oral argument. Pet’rs’.Br.18 n.13.

Parents 4A and 4B do not allege that any of their three children have experienced gender dysphoria, sought gender-affirming care, or run away. Pet.App.76a. Petitioners “d[id] not pursue the claims of 4A and 4B on appeal.” Pet.App.10a.

Finally, Parents 5A and 5B alleged that their child 5C had gender dysphoria, had sought gender-affirming care, and had run away once before. 5C, however, ran away over two years prior to enactment of ESSB 5599 and SHB 1406, and not to a licensed shelter. 5C is already 18. Pet’rs’.Br.18 n.13.

As to the organizations, none alleged that any of their members have children who have ever run away, let alone to a licensed shelter governed by Washington’s law. Pet.App.69a-70a.

No Petitioner alleged that their child or any member’s child is receiving protected healthcare. None alleged that their child or any member’s child

¹⁴ Petitioners’ erroneously say that 2C is 16. Pet’rs’.Br.18 n.13. In fact, 2C was already 18 when Petitioners filed their complaint. Pet.App.72a. It is 2D who is now 16. *Id.*

has run away to a licensed shelter subject to Wash. Rev. Code § 13.32A.082(1)(b). None alleged that the Department has referred their youth or any member's youth for services or failed to disclose information about their children. Finally, no Petitioner alleged that any adolescent within their ken has received (or sought) outpatient mental health treatment without parental consent under Wash. Rev. Code § 71.34.530.

The district court dismissed Petitioners' complaint, holding that Petitioners lacked standing because their alleged injuries were based on a "speculative chain of possibilities[.]" Pet.App.28a-31a (quoting *Clapper*, 568 U.S. at 414).

The Ninth Circuit unanimously affirmed. The panel's opinion, authored by Judge Milan Smith, Jr., and joined by Judges Thomas and Bress, held "that Plaintiffs have not pled current or future injuries sufficient to confer Article III standing." Pet.App.4a-5a.

With respect to Petitioners' allegations of "constraints on their ability to parent," the Ninth Circuit explained that no Petitioner "allege[d] that their or their children's behavior has yet brought them within reach of the Statutes." Pet.App.14a-15a. "Instead, [Petitioners] allege only that the looming 'threat' imposed by the Statutes has led them to alter their parenting styles so that the Statutes cannot affect them." Pet.App.15a. But "a plaintiff 'cannot manufacture standing merely by inflicting harm on themselves based on their fears of hypothetical future harm that is not certainly impending.'" *Id.* (quoting *Clapper*, 568 U.S. at 416). Thus, any changes in

parenting style “are the result of ‘voluntary’ actions that Plaintiffs have taken” to avoid conflict with their children. Pet.App.15a-16a.

As to Petitioners’ allegations of chilled speech, the Ninth Circuit concluded that Petitioners did not allege a cognizable injury because “the Statutes do not regulate speech . . . , and they have no bearing on whether and to what extent [Petitioners] are permitted to speak about topics, such as gender, with or around their children.” Pet.App.17a.

As to Petitioners’ alleged informational injuries, the Ninth Circuit noted that Petitioners had failed to tether their allegations to the challenged statutes. For example, Parents 1A and 1B alleged they were not informed their child had socially transitioned at school, but “these incidents bear no relation to the Statutes, which do not regulate the conduct of public schools.” Pet.App.18a. Similarly, Parents 5A and 5B alleged they did not receive information when their child was hospitalized, but none of the provisions they challenge “regulate parental access to medical records[.]” Pet.App.18a-19a.

On the Petitioners’ assertions of future injuries, the Ninth Circuit rejected Petitioners’ arguments that “because [they] may someday be affected by the Statutes, [Petitioners] should have standing to challenge the Statutes now.” Pet.App.19a. Petitioners’ “claims rely on an enormity of ‘ifs’ and ‘shoulds,’ without any detail or explanation as to when or why these contingencies might occur.” Pet.App.21a.

Lastly, the Ninth Circuit rejected IPEC's claim of associational standing because the member on whose behalf IPEC sued "lacks standing for the same reasons as the Individual Plaintiffs[.]" Pet.App.26a.¹⁵

Petitioners moved for panel rehearing or rehearing en banc. Both were denied. Pet.App.34a; Pet.App.51a.

Petitioners then sought certiorari, and this Court granted review.

SUMMARY OF ARGUMENT

Petitioners' legal theories fail under settled precedent, but the Court need not reach those theories because it should dismiss this case as improvidently granted for three reasons. First, the claims of nearly all Petitioners are moot. Second, Petitioners' arguments rely on misrepresenting Washington law. And third, the lead theory offered by Petitioners, and the alternative theory presented by the United States, have never been adopted by any court or presented to the courts below here.

If this Court reaches the merits, it should affirm. Petitioners' primary argument asks this Court to throw out a century of precedent and adopt a new rule under which anyone who is the "object" of a law can challenge it, even if they can show no harm. But standing rules stem directly from the Constitution; they are not prudential considerations that can be ignored or lightly altered. Under Petitioners' proposed rule, innumerable prior decisions would have come

¹⁵ Petitioners "offer[ed] no assertion" that APC has standing. Pet.App.25a.

out differently, and standing doctrine would become a morass of inquiries into legislative history and who qualifies as a law's "object," a question Petitioners cannot answer even in this case.

As a fallback, Petitioners assert standing under this Court's established test, but they cannot show concrete, particularized, and actual or imminent harm. They concede that none of the laws they challenge have been applied to them or directly regulate them. They assert instead that the laws are causing them to change their current behavior to prevent possible future harm. But this Court has repeatedly held that a plaintiff cannot generate standing by changing their behavior to avoid a theoretical future harm. And a long chain of speculative events would have to occur before the challenged laws might affect any Petitioner.

Unwilling to support Petitioners' theories, the United States offers its own novel rule: universal standing for parents who claim that a state law, action, or policy "alters th[eir] authority." U.S. Amicus Br. 21. That rule finds no basis in precedent, inexplicably singles out one category of substantive due process claim for special standing rules, and would allow parents to sue about policies they oppose that have no impact on them.

The Court should affirm or dismiss.

ARGUMENT

A. The Court Should Affirm or Dismiss as Improvidently Granted

This Court has repeatedly held "that the irreducible constitutional minimum of standing

contains three elements’: injury in fact, causation, and redressability.” *Diamond Alt. Energy, LLC v. EPA*, 606 U.S. 100, 111 (2025) (quoting *Lujan*, 504 U.S. at 560). The lower courts correctly held here that Petitioners failed to meet these requirements, and the following sections explain why Petitioners cannot evade that test (Part C) or satisfy it (Part B). This Court should therefore affirm if it reaches the merits.

But before this Court reaches the merits, it should dismiss this case as improvidently granted for three reasons.

First, Petitioners’ merits brief discloses for the first time that nearly all of their remaining claims are moot. *See TransUnion LLC v. Ramirez*, 594 U.S. 413, 431 (2021) (“Plaintiffs must maintain their personal interest in the dispute at all stages of litigation.”). The original plaintiffs in this case consisted of five sets of parents and two organizations. In the Ninth Circuit, Petitioners abandoned the claims of one set of parents (4A and 4B) and one organization (APC). Pet.App.10a, 25a. In this Court, they admit that the claims of three other sets of parents are either already moot (5A and 5B) or will be before the Court can decide this case (1A, 1B, 3A, and 3B). Pet’rs’.Br.18 n.13. And they barely argue standing for the remaining organizational plaintiff, IPEC, offering only conclusory assertions in a footnote. Pet’rs’.Br.43; *see Roberts v. Galen of Va., Inc.*, 525 U.S. 249, 253 (1999) (declining to address insufficiently developed claims). That leaves Petitioners’ entire standing argument dependent on the allegations of one set of parents, 2A and 2B.

This mootness problem is not academic. To begin with, unlike other parent petitioners, 2A and 2B did not assert any violation of their free exercise rights. Pet.App.72a-73a, 97a-99a. Thus, one of Petitioners' constitutional theories of harm is now gone from this case. Moreover, Petitioner 2A and 2B's allegations of injury, causation, and redressability possess unique problems beyond those common to other Petitioners. For example, they allege that "[a] primary reason" their minor child, 2D, has threatened to run away is their decision not to use the child's preferred pronouns, a decision that will not change if these laws are invalidated. Pet.App.101a-02a. And they allege that their older child, 2C (now an adult), was threatening to help 2D run away even before the challenged laws passed. Pet.App.72a. Thus, Petitioners' standing theory—which was profoundly implausible even before these mootness problems—is untenable now.

Petitioners try to evade their mootness problem by claiming that, "on remand, Petitioners will seek to amend their complaint to add Section 1983 damages claims." Pet'rs'.Br.18 n.13. But Petitioners already amended their complaint and declined to add a Section 1983 claim. Pet.App.66a-148a. Nor do they suggest what possible damages they could seek. There is no basis for the highest court in the land to weigh in so that Petitioners might, one day, bring hypothetical claims.

Second, Petitioners' standing theory depends on claims about Washington law that are demonstrably wrong. For example, they repeatedly assert that "parents cannot reunite with their child[.]" Pet'rs'.Br.14, or could lose "custody" of their children

under the challenged laws. Pet’rs’.Br.50, 52. That is just false. *Supra* p. 11. They claim that the laws “deliberately lure children to run away,” Pet’rs’.Br.2, by promising them state-provided gender-affirming care, but in fact the State provides no such care, instead simply providing contact information for mental health providers that is readily available online. *Supra* p. 12. Even the laws’ opponents in the legislature recognized this. *Supra* p. 13. Petitioners claim that the laws allow the State to provide their children with “irreversible treatment” without their consent, Pet’rs’.Br.52, but in fact the laws allow referrals only for mental health counseling. In short, the more this Court examines Petitioners’ theories of harm and causation, the more it will realize that they are built on quicksand.

Finally, the lead theories of standing now offered by Petitioners and the United States have never been adopted by any court or previously presented to any court in this case. Below, Petitioners unsuccessfully argued standing under this Court’s established test. But now, their lead argument is that they have standing just because they are allegedly “objects” of the laws they challenge, an argument that appears nowhere in their lower court briefing. The United States and their own counsel in the courts below reject this theory. Am. First Legal Found. Amicus Br. 25; U.S. Amicus Br. 13, 23. And the United States argues for a completely different novel theory never presented below or adopted by any court. There are good reasons that this Court is one of review, not first view. *Moody v. NetChoice, LLC*, 603 U.S. 707, 726 (2024). On a doctrine as foundational as standing, this Court should not be the first to address novel theories

with far-reaching implications. Instead, the Court should dismiss and allow these theories to percolate in the lower courts in future cases.

B. Petitioners’ Primary Argument Advances a Radical New Standing Theory that Ignores Precedent, Violates Article III Principles, and Invites Absurd Results

Rather than attempting to satisfy this Court’s settled test for standing, Petitioners first ask this Court to adopt a new rule under which any party who is the alleged “object” of a law can challenge it, even if it does not harm them. The Court should decline.

This Court has repeatedly held “that the irreducible constitutional minimum of standing contains three elements’: injury in fact, causation, and redressability.” *Diamond Alt. Energy*, 606 U.S. at 111 (quoting *Lujan*, 504 U.S. at 560). These requirements stem directly from Article III’s “case or controversy” requirement, *Lujan*, 504 U.S. at 559-60, and are “firmly rooted in American constitutional law,” *Food & Drug Administration v. Alliance for Hippocratic Medicine*, 602 U.S. 367, 380 (2024). For over 100 years, this Court has applied these principles to ensure that federal courts do not “operate as an open forum for citizens ‘to press general complaints about the way in which government goes about its business,’” and that legal questions are presented “‘in a concrete factual context conducive to a realistic appreciation of the consequences of judicial action.’” *Id.* at 379 (citations omitted); *see also Massachusetts v. Mellon*, 262 U.S. 447, 487-88 (1923); *Tyler v. Judges of Ct. of Registration*, 179 U.S. 405, 410 (1900).

Despite this century of precedent, Petitioners assert that plaintiffs can bypass showing injury, redressability, and causation merely by alleging they are the “objects” of a law. Pet’rs’.Br.22-23. Under this theory, virtually every parent of school-aged children in Washington would have standing to challenge the laws at issue here, even if they could show no harm. Pet’rs’.Br.23, 29-30. This “expansive understanding of Article III would flout constitutional text, history, and precedent.” *TransUnion*, 594 U.S. at 428.

This Court has never held that the “object” of a law is exempt from normal standing rules. Instead, the Court has said that when a party is directly regulated or affected by a government policy, i.e., when they are the “object” of the policy, then it is usually easy for that party to show injury, causation, and redressability. By contrast, when they are not the object of the policy, i.e., not directly regulated by it, it is significantly more difficult, though not impossible, to make the required showing. But either way, they are not excused from constitutional standing rules.

Lujan makes this clear. “When the suit is one challenging the legality of government action or inaction, the nature and extent of facts that must be” demonstrated “to establish standing depends considerably upon whether the plaintiff is himself an object of the action (or forgone action) at issue. If he is, there *is ordinarily little question* that the action or inaction has caused him injury, and that a judgment preventing or requiring the action will redress it.” *Lujan*, 504 U.S. at 561-62 (emphasis added). But when “a plaintiff’s asserted injury arises from the government’s allegedly unlawful regulation (or lack of

regulation) of *someone else*,” i.e., “when the plaintiff is not himself the object of the government action or inaction he challenges, standing is not precluded, but it is ordinarily ‘substantially more difficult’ to establish.” *Id.* at 562 (quoting *Allen v. Wright*, 468 U.S. 737, 758 (1984)). Either way, the “irreducible constitutional minimum of standing” requires the same “three elements”: harm, causation, and redressability. *Id.* at 560.¹⁶

This Court’s post-*Lujan* decisions reflect the same approach. In *Alliance for Hippocratic Medicine*, for example, the Court noted that “[g]overnment regulations that require or forbid some action by the plaintiff almost invariably satisfy both the injury in fact and causation requirements.” 602 U.S. at 382. “By contrast,” when “a plaintiff challenges the government’s unlawful regulation (or lack of regulation) of *someone else*, standing . . . is ordinarily substantially more difficult to establish.” *Id.* (citation modified).

Diamond Alternative Energy discussed these principles in holding that fuel producers had standing to challenge regulations aimed at reducing fuel consumption. 606 U.S. 100. The Court noted that

¹⁶ Justice Scalia wrote *Lujan*, and it is entirely consistent with his law review article Petitioners cite. See Antonin Scalia, *The Doctrine of Standing as an Essential Element of the Separation of Powers*, 17 SUFFOLK U. L. REV. 881, 894-95 (1983) (explaining that where “the law bear[s] down upon the individual himself,” i.e., “when an individual who is the very *object* of a law’s requirement or prohibition seeks to challenge it,” standing is readily satisfied, but “‘concrete injury’ . . . is the indispensable prerequisite of standing”).

the “object” of a regulation “ordinarily” has standing, whereas a plaintiff who is “not the object” must generally show that “regulated third parties . . . will act” in predictable ways “in response to the government regulation or judicial relief.” *Id.* at 112. The Court then briefly considered whether the plaintiffs were “objects” of the challenged regulations before determining the question was academic because “commonsense economic realities” and record evidence demonstrated that the plaintiffs would suffer monetary harms. *Id.* at 116-17. This Court did not excuse plaintiffs from *actually demonstrating* the three elements of standing. The cases cited in *Diamond Alternative Energy* likewise did not excuse the required showing. See *Columbia Broad. Sys. v. United States*, 316 U.S. 407, 422 (1942) (finding injury where regulations would “affect adversely appellant’s contractual rights and business relations”); *Pierce v. Soc’y of the Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510, 530, 535-36 (1925) (finding that private schools faced “clear and immediate” injuries).

Most recently, in *Mirabelli v. Bonta*, the Court addressed whether parents were likely to demonstrate standing to challenge a state policy that forbade public schools from informing parents that their children had socially transitioned at school. 607 U.S. 492, 493 (2026) (per curiam). The plaintiffs alleged specific injuries from the challenged policy, including that several were denied information about their children, *id.* at 493-94, even after one attempted suicide, *id.* at 499 (Barrett, J., concurring). Moreover, the Court noted that parents were likely already suffering free exercise and due process injuries. *Id.* at 496-97. Based on the limited record before it,

this Court preliminarily found that the parents “very likely have standing because they are objects of the challenged exclusion policies.” *Id.* at 498 (citing *Diamond Alt. Energy*, 606 U.S. at 114).

Given the evidence in *Mirabelli* and the need to make a probabilistic judgment on a stay application, this outcome is straightforward. But nothing in that case suggested that a plaintiff who can show no harm can generate standing merely by alleging that he is the law’s object.

The bottom line under this Court’s cases is clear: “No concrete harm, no standing.” *TransUnion*, 594 U.S. at 417. The same goes for causation and redressability. *Lujan*, 504 U.S. at 560-61.

Were Petitioners’ theory the law, it would mean this Court has repeatedly erred in its standing decisions. If everyone who was arguably “targeted” by or the “object” of a policy had standing to sue, then surely any social-media user who posted the sorts of content that the federal government specifically urged social media companies to restrict would have standing to challenge that federal targeting. *But see Murthy v. Missouri*, 603 U.S. 43, 64-72 (2024). Surely any member of a minority group could challenge government policies that stigmatize that group, regardless of whether they personally felt the concrete effects. *But see Allen*, 468 U.S. at 755; *O’Shea v. Littleton*, 414 U.S. 488, 495-97 (1974). Surely anyone who was or could become pregnant would have standing to challenge the Hyde Amendment. *But see Harris v. McRae*, 448 U.S. 297, 320 (1980). And so on. But as these cases make clear, being a member of an allegedly “targeted” group, by itself, is insufficient.

Even beyond its constitutional flaws, Petitioners “startlingly broad” standing theory is unworkable. *Murthy*, 603 U.S. at 75. For example, it is unclear how to define who the “object” is under Petitioners’ theory. *Lujan* says that the object is the person directly regulated or acted upon by the government (hence why standing is usually a cinch). Petitioners, however, mean something different—after all, Washington’s laws don’t regulate or operate on them. They first say that any “parents unwilling to affirm gender confusion who have minors capable of understanding gender and running away have standing as the laws’ objects.” Pet’rs’.Br.29. But then, acknowledging that Washington law applies regardless of a parents’ views, they say “[e]ven parents who have or would welcome their child’s transition . . . would have standing too[.]” Pet’rs’.Br.30. Ultimately they land at: every parent of school-age kids has standing. *Id.* This is indistinguishable from the “every other taxpayer” theory this Court has rejected. *Mellon*, 262 U.S. at 487.

At times, Petitioners suggest inquiring into legislative history to determine a law’s objects, and they mischaracterize floor statements of individual legislators as evidence that they were targeted. Pet’rs’.Br.10-11, 25. But “floor statements by individual legislators rank among the least illuminating forms of legislative history.” *NLRB v. SW Gen., Inc.*, 580 U.S. 288, 307 (2017). Certainly Justice Scalia, who Petitioners suggest invented their

“object” test, would not have condoned this approach. *See Conroy v. Aniskoff*, 507 U.S. 511, 519 (1993) (Scalia, J., concurring) (“The greatest defect of legislative history is its illegitimacy.”).

Given the many problems with Petitioners’ approach, it is no wonder that this Court has never endorsed it, and that the federal government and Petitioners’ own counsel below snub it. This Court should reject Petitioners’ theory and adhere to its enduring standing precedent.

C. Petitioners Lack Standing Under This Court’s Settled Precedent

The reason Petitioners ask this Court to ignore a century of standing doctrine is clear: they lack standing under this Court’s precedent.

1. Petitioners failed to allege a cognizable injury-in-fact

To establish standing, Petitioners had the burden of alleging an injury that is “‘concrete, particularized, and actual or imminent.’” *Clapper*, 568 U.S. at 409 (citation omitted). “Where, as here, a case is at the pleading stage, the plaintiff must ‘clearly . . . allege facts demonstrating’ each element.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016) (alteration in original) (quoting *Warth v. Seldin*, 422 U.S. 490, 518 (1975)). Petitioners failed this burden.

a. Petitioners’ allegations of current harm are not concrete, particularized, or actual

Concrete. Petitioners’ lead argument that they have suffered a concrete harm is the untenable

idea that merely alleging violations of individual constitutional rights demonstrates concrete injury. Pet'rs'.Br.31-32. This Court has never said that. Instead, it has routinely upheld dismissal on standing grounds in cases where plaintiffs alleged violations of individual constitutional rights. *See, e.g., Laird v. Tatum*, 408 U.S. 1, 10 (1972); *Allen*, 468 U.S. at 754-66. Even in cases where the Court found standing to survive a motion to dismiss, it did not treat the plaintiffs' mere allegations of constitutional violations as sufficient. *E.g., Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014) (reviewing dismissal of First Amendment claim and carefully analyzing whether plaintiff had shown a credible threat of enforcement).

Petitioners misread this Court's decision in *TransUnion* to support their argument that alleging a constitutional violation establishes injury. But *TransUnion* simply recognized that intangible harms *can be* concrete, particularly "injuries with a close relationship to harms traditionally recognized as providing a basis for lawsuits in American courts," such as restrictions on speech or free exercise. 594 U.S. at 425. *TransUnion* did not hold that merely alleging a constitutional violation creates standing. *See, e.g., Clapper*, 568 U.S. at 407 (holding plaintiffs lacked standing to bring Fourth Amendment, First Amendment, and separation of powers claims); *Murthy*, 603 U.S. at 49-50 (plaintiffs lacked standing to bring First Amendment claims).

Petitioners also miss the mark in arguing that because the denial of constitutional rights constitutes irreparable injury, an allegation of such a denial must "also constitute injury-in-fact, including concreteness." Pet'rs'.Br.33. This collapses the merits

with standing. When a plaintiff has shown a likely constitutional violation, that shows injury, but merely alleging a constitutional violation does not. *See, e.g., Laird*, 408 U.S. at 10 (affirming dismissal of complaint alleging violations of free speech). Accepting Petitioners’ argument would virtually eliminate standing as a restraint on judicial authority, because anyone can *allege* a constitutional violation.

In reality, Petitioners must plausibly allege that the challenged laws concretely affect them in some way that would violate their constitutional rights if proven. *See Spokeo*, 578 U.S. at 338 (holding that “at the pleading stage, the plaintiff must clearly allege facts demonstrating each element” of standing (citation modified)). This requires analyzing Petitioners’ constitutional claims separately to determine whether they have plausibly alleged a concrete constitutional harm under each. *See Murthy*, 603 U.S. at 61 (explaining that “plaintiffs must demonstrate standing for each claim that they press” (quoting *TransUnion*, 594 U.S. at 431)).

Here, Petitioners press three constitutional claims: free speech, free exercise, and substantive due process. But they have not alleged concrete harms as to any of them.

On free speech, Petitioners have not plausibly alleged that the State is restricting what they can say. *See Pet.App.17a* (explaining that the laws “have no bearing on whether and to what extent [Petitioners] are permitted to speak about topics, such as gender, with or around their children”). Instead, they allege that some Petitioners, particularly 2A and 2B,

are restricting their own speech to avoid conflict with their children because they fear that such conflict might prompt their children to (1) run away; (2) seek out a licensed youth homeless shelter; and (3) ultimately receive gender-affirming care without their consent. Pet.App.73a; Pet.App.123a (“SB 5599 and HB 1406 chill protected speech, as parents with a gender-confused child may fear to use certain speech . . . or say certain things . . . *that could lead to the child seeking to trigger* the [challenged laws].” (emphasis added)).

Even accepting as true the allegation that parents are currently modifying their speech because of these laws, Petitioners’ own argument is that they are doing so for fear of how their children might react to their speech. *See id.* This Court’s cases make clear that modifying one’s own speech to avoid an uncertain potential future harm fails to establish concrete harm. *See, e.g., Clapper*, 568 U.S. at 416 (“[R]espondents cannot manufacture standing merely by inflicting harm on themselves based on their fears of hypothetical future harm that is not certainly impending”); *Laird*, 408 U.S. at 13-14 (“Allegations of a subjective ‘chill’ are not an adequate substitute for a claim of specific present objective harm or a threat of specific future harm.”). Indeed, *Clapper* and *Laird* presented stronger cases for standing than this one, because in those cases the plaintiffs alleged that they modified their speech to avoid surveillance and prosecution *by the government*, *Clapper*, 568 U.S. at 415; *Laird*, 408 U.S. at 10, which would be classic First Amendment harms, whereas here Petitioners say they are modifying their speech to avoid certain reactions by their children. *See Murthy*, 603

U.S. at 57 (“We have been reluctant to endorse standing theories that require guesswork as to how independent decisionmakers will exercise their judgment.” (citation modified)).

This case is unlike *Virginia v. American Booksellers Association, Inc.*, where the plaintiffs’ self-censorship injury was grounded in their “actual and well-founded fear that the law would be enforced against them,” 484 U.S. 383, 393 (1988), and *Bantam Books, Inc. v. Sullivan*, where the government action impaired sales of publications, including those published by the plaintiffs, 372 U.S. 58, 64 n.6 (1963). Without a threat of specific impending harm resulting from the challenged laws, Petitioners’ self-censorship theory fails.

As for Petitioners’ free exercise claim, none of the remaining Petitioners asserted this claim. Setting that aside, the complaint alleged no concrete free exercise harm. Instead, it asserted that Washington’s laws interfered with Petitioners’ free exercise rights by depriving them of custody of their children, overriding their “religiously motivated decisions regarding healthcare,” and offering their children services that they oppose. Pet.App.116a-17a. But none of those things have actually occurred. *See, e.g., Trump v. New York*, 592 U.S. 125, 132-34 (2020) (explaining that plaintiffs alleged “no concrete harm from the challenged policy itself,” but rather only possible future harms). “A ‘concrete’ injury must be ‘*de facto*’; that is, it must actually exist.” *Spokeo*, 578 U.S. at 340 (citing Black’s Law Dictionary 479 (9th ed. 2009)).

Finally, Petitioners have not plausibly alleged any concrete injury to their substantive due process rights as parents. Parents 1A and 1B claim that they altered their parenting style by reducing discipline for fear that their child might run away and obtain gender-affirming care without them knowing. Pet.App.14a. This theory suffers from several preliminary flaws, including that 1A and 1B's claims are moot, Pet'rs'.Br.18 n.13, and that the challenged laws still require notification to parents of a runaway child. But more fundamentally, this Court has never held that a right to a particular parenting style is "deeply rooted in our history and tradition" and "essential to our Nation's scheme of ordered liberty." *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 237 (2022) (citation modified). Even if the Court had done so, Petitioners' self-imposed changes in parenting style are insufficient to show concrete harm to that hypothetical right, because nothing in the challenged statutes regulates their parenting conduct. Here again they are attempting to parlay their own reaction to "fears of hypothetical future harm" into the necessary "certainly impending" injury. *See Clapper*, 568 U.S. at 416-17.

Petitioners' complaint also suggested that Washington law interferes with their parental rights by overriding their rights to "refuse treatment" for their children and to "custody" of their children. Pet.App.104a, 114a-116a, 127a, 130a. But they never allege that such harm has occurred. None of their children have run away to a licensed shelter, received (optional) referrals for behavioral health services, or received outpatient mental health treatment without

their consent. All they allege is that the *possibility* (never mind probability) injures them. This is a consummately abstract injury. *See Spokeo*, 578 U.S. at 340 (“A ‘concrete’ injury . . . must actually exist.”).

Petitioners briefly argue that the challenged laws have injured them because 5A’s and 5B’s child received mental-health treatment without their consent, and other Washington laws, unchallenged here, have allegedly prevented them from accessing treatment records. Pet’rs’.Br.45. Setting aside that their claims are moot because 5C is now an adult, Pet’rs’.Br.18 n.13, Petitioners do not connect this alleged injury to the challenged laws. *See* Pet.App.19a. They do not allege that 5C’s hospitalizations were for outpatient mental health treatment, that 5A and 5B declined to authorize that treatment, or that 5A and 5B sought information from 5C’s medical providers. *See* Pet.App.77a. In addition, as Petitioners acknowledge, other laws, unchallenged here, regulate parental access to medical records. *See* Pet’rs’.Br.45. They cannot base a concrete harm on laws not at issue.

Particularized. Petitioners’ injuries are not particularized either. As detailed above, Petitioners argue that every parent in Washington could challenge these laws. *Supra* pp. 28-29. Counting only parents whose children live with them, that’s about 43% percent of adults in Washington. *See* Wash. State Off. of Fin. Mgmt., *Families by household type*, <https://ofm.wa.gov/data-research/washington-trends/social-economic-conditions/#section-families-by-household-type> (last visited Oct. 18, 2026). A theory of standing that sweeps in nearly half of adults is not one

that affects Petitioners “in a personal and individual way.” *Spokeo*, 578 U.S. at 339 (quoting *Lujan*, 504 U.S. at 560 n.1).

Bost v. Illinois State Board of Elections does not support Petitioners. *Contra* Pet’rs’.Br.33-34. There, a congressional candidate challenged an Illinois law that allowed counting ballots postmarked no later than election day. 607 U.S. 71, 74 (2026). This Court explained why “a candidate has a personal stake in the rules that govern the counting of votes in his election[,]” contrasting this with voters who have a generalized interest in an accurate vote count: “[a]n unfair and inaccurate election plainly affects those who compete for the support of the people in a different way than it affects the people who lend their support.” *Id.* at 76, 78. *Bost* confirms that Petitioners lack particularity here. The 43% of Washington adults who have children may have a generalized interest in the challenged law in the same way that the 51% of registered voters who participated in Illinois’ 2022 general election do, *see* Illinois State Board of Elections, *Voter Turnout*, <https://www.elections.il.gov/ElectionOperations/VoterTurnout.aspx> (last visited Oct. 18, 2026), but they don’t have a distinct, personal injury. This is a sharp contrast with *Mirabelli*, where the plaintiff parents had already been denied information under the challenged policies and (as this Court concluded) were likely already suffering constitutional harms. *Mirabelli*, 607 U.S. at 494.

Finally, Petitioners cannot hinge particularity on Parents 5A and 5B alleging that their child has run away before. Their claims are moot, and they fail to show how this past harm is traceable to the

challenged law. “This failure to establish traceability for past harms . . . substantially undermines the plaintiffs’ standing theory.” *Murthy*, 603 U.S. at 70 (citation modified).

Actual. Petitioners have not shown actual injuries either. Their primary claim of actual injury is that they suffered an injury “the moment the laws took effect[.]” Pet’rs’.Br.35. But this Court has never held that the mere existence of a law constitutes injury-in-fact. Plaintiffs need to show they’ve been injured *because of* the law. See *City of Los Angeles v. Lyons*, 461 U.S. 95, 101-02 (1983) (“The plaintiff must show that he ‘has sustained or is immediately in danger of sustaining some direct injury’ *as the result of* the challenged official conduct[.]” (emphasis added) (citation omitted)); *Poe v. Ullman*, 367 U.S. 497, 504 (1961).

Carney v. Adams, 592 U.S. 53 (2020), demonstrates this. There, this Court held that an attorney lacked standing to challenge a state law limiting state court judgeships to major political parties. The plaintiff allegedly intended to apply to be a judge but didn’t show he was able and ready to do so. See *id.* at 61. It was not enough for the challenged law to “have gone into effect.” *Contra* Pet’rs’.Br.35.

Petitioners’ attempts to analogize their injuries to pre-enforcement standing injuries are unavailing. See Pet’rs’.Br.36. Pre-enforcement standing arises when an individual faces a credible threat of government action based on conduct that is arguably forbidden by the law. *Driehaus*, 573 U.S. at 158. When the threatened enforcement is sufficiently imminent,

“an actual arrest, prosecution, or other enforcement action is not a prerequisite to challenging the law.” *Id.* But Washington’s laws don’t enforce anything against Petitioners, much less imminently.

Petitioners next offer a grab bag of arguments as to why they have suffered an actual injury, but none suffices. They suggest that ESSB 5599 implicitly stigmatizes them as abusive parents. Pet’rs’.Br.39. But they never alleged this in their complaint. *See* Pet.App.66a-139a. It is also inaccurate, because they are not denied information about or custody of their children in the way that abusive parents can be. *Supra* pp. 10-11. Even if Petitioners’ characterizations were accurate, this Court has repeatedly rejected the notion that membership in an allegedly stigmatized group, without more, constitutes injury-in-fact. *See Allen*, 468 U.S. at 755; *see also United States v. Hays*, 515 U.S. 737, 745 (1995).

Petitioners also assert that they have lost legal protections under the law—including notice and custody of their children. As detailed above, this is false. *Supra* pp. 7-11. But even if it were true, a change in law that a person perceives as less favorable to them is not enough to generate standing—they still must show actual or imminent harm from the change. *See All. for Hippocratic Med.*, 602 U.S. 381-82; *Carney*, 592 U.S. at 60.

Petitioners also claim that it is a “commonsense inference[.]” that the law provides incentives for youth to run away. Pet’rs’.Br.40. In fact, it is irrational to assume that children would run away from home

to get information they could easily obtain online. *Supra* p. 12. And in the more than three years that these laws have been in effect, no child has done so. *Supra* p. 13.

Next, Petitioners claim that the laws they challenge are causing them to fear what might happen to their children. Pet.App.42-43. But this Court has rejected the idea that current harm can be based on “fears of hypothetical future harm that is not certainly impending.” *Clapper*, 568 U.S. at 416. And parental fears are profound and varied; any rule that made parental fear suffice for standing would render standing meaningless.

Finally, Petitioners argue that their injuries aren’t self-inflicted, Pet’rs’.Br.46, but the cases they cite don’t support their argument. In *Federal Election Commission v. Cruz*, 596 U.S. 289 (2022), Senator Cruz and his campaign committee challenged a law and regulation that he knowingly triggered. *Id.* at 296. But this Court made clear that the plaintiffs’ injuries were “directly inflicted by the FEC’s threatened enforcement of the provisions” they challenged. *Id.* at 297. That plaintiffs “chose to subject themselves to those provisions does not change the fact that they *are* subject to them, and will face genuine legal penalties if they do not comply.” *Id.* This Court distinguished this from cases like *Clapper*, where plaintiffs voluntarily take on burdens but cannot show that they are likely to be subjected to the challenged policy. *See id.*

This case is like *Clapper*, not *Cruz*. Petitioners’ alleged injuries are the product of their fear of how this law might someday affect them, but they

do not face a threat of “certainly impending” application. *Clapper*, 568 U.S. at 417. “[S]uch a fear is insufficient to create standing.” *Id.*; see also *Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 154-55 (2010) (finding standing where farmers incurred costs to avoid a “significant risk”); *Clapper*, 568 U.S. at 420 (distinguishing *Monsanto* because, as here, the plaintiffs “present no concrete evidence to substantiate their fears, but instead rest on mere conjecture about possible governmental actions”).

In short, under this Court’s cases, Petitioners failed their burden of “‘clearly . . . alleg[ing] facts demonstrating’ each element” of injury in fact: concrete, particularized, and actual injury. *Spokeo*, 578 U.S. at 338 (quoting *Warth*, 422 U.S. at 518).

b. Petitioners’ alleged future injuries are too speculative

This Court does not “require plaintiffs to demonstrate that it is literally certain that the harms they identify will come about.” *Clapper*, 568 U.S. at 414 n.5. But standing must be based on harm that is certainly impending or at least substantially likely, which then prompts plaintiffs to reasonably act to mitigate or avoid that harm. See *id.* Petitioners fail this standard.

Petitioners hinge their allegations of future injuries on their assertion that ESSB 5599 operates “to keep children at locations without their parents’ knowledge and refer those children for health interventions without their parents’ knowledge or approval.” Pet.App.68a. As explained, the statute does no such thing. *Supra* pp. 7-11. But even crediting their wayward interpretation, Petitioners would come into

contact with the challenged laws only if a “convoluted series of events transpires[.]” Pet.App.22a. Before any parent suffers an injury, their child would have to: (1) have a gender identity different from their sex assigned at birth; (2) be seeking gender-affirming care; (3) run away; (4) find a licensed shelter; (5) decline to share parental information with the Department; (6) accept the Department’s referral for behavioral health services; and (7) obtain mental health care from a provider without parental consent based on the Department’s referral. None of the Petitioners came close to showing this causal chain or supplied “‘concrete’ details or ‘specification of *when*’ they might occur.” *Id.* (quoting *Lujan*, 504 U.S. at 564).

Instead, Petitioners’ complaint “rel[ie]d on an enormity of ‘ifs’ and ‘shoulds,’ without any detail or explanation as to when or why these contingencies might occur,” Pet.App.21a, alleging only potential “injury at some indefinite future time[.]” *Lujan*, 504 U.S. at 564 n.2. They contend the challenged laws make it *possible* their children may someday seek refuge with a licensed shelter and obtain gender-affirming care without their consent.

Lujan shows that such speculation is insufficient. There, the plaintiffs alleged cognizable interests in observing certain animal species, 504 U.S. at 562-63, the Court assumed that the allegedly unlawful actions would harm those species, *id.* at 564, and the plaintiffs had visited and intended to visit again sites where those animals lived and were being harmed by the allegedly illegal conduct, *id.* But the Court still found no standing because the plaintiffs had not alleged any “concrete plans” to visit the

relevant sites again. *Id.* Here, as in *Lujan*, because Petitioners alleged only potential “injury at some indefinite future time” without any immediacy, let alone a “high degree of immediacy,” they failed to establish injury. *Id.* at 564 n.2. Indeed, this case is even weaker than *Lujan*, because there the plaintiffs expressed a clear “‘inten[t]’ to return to the places they had visited before,” *id.* at 564; there is no such allegation here.

Clapper further forecloses Petitioners’ argument. There, attorneys, advocates, and reporters challenged provisions of the Foreign Intelligence Surveillance Act that permitted surveillance of non-citizens outside the United States. 568 U.S. at 401. Plaintiffs alleged they were in contact with individuals targeted for surveillance, and thus their communications likely would be unconstitutionally captured. *Id.* at 406-07. Although the lower court found standing based on “an objectively reasonable likelihood” that the plaintiffs would suffer injury from the challenged policy, this Court reversed. The Court said that “an objectively reasonable likelihood” of harm was not enough, *id.* at 410, and that the plaintiffs could not show a sufficiently likely impending injury because there were multiple steps that might not occur in their theory of how they would be harmed, *id.* at 410-14.

As in *Clapper*, Petitioners’ allegations are insufficient because they rely on a chain of contingencies and independent actions by third parties. *See id.* at 414 (expressing “reluctance to endorse standing theories that rest on speculation about the decisions of independent actors[.]”). For example, for Petitioners’ alleged harms to occur, one

of their children would have to run away. None of them allege any concrete intent to do that, and only 5C has ever done that before (and that was before the challenged laws took effect, and 5C's claims are moot). They would then have to end up at a licensed shelter. None of them allege an intent to do that, and only a tiny fraction of runaways go to licensed shelters. *Supra* pp. 4-5. Then their children would need to be currently seeking gender-affirming care. None of them allege that they are. Only then would ESSB 5599's notification and referral process be triggered, which has not happened even once since the law was amended. *See supra* p. 13. Even after all that, the minor would then have to attempt to use the referral to obtain mental health counseling, and find a way to pay for it and arrange transportation to it.

In short, a litany of speculative events would have to occur before the challenged laws could harm Petitioners, and *Clapper* makes clear that there can be no standing in that circumstance. *See also, e.g., Trump v. California*, No. 26A124, 2026 WL 2473573, at *2 (U.S. Aug. 24, 2026) ("Article III prohibits federal courts from stacking hypothetical on hypothetical to speculate that harm will eventually materialize."); *All. for Hippocratic Med.*, 602 U.S. at 388, 390-91 (rejecting downstream conscience and economic injuries as too speculative).

Petitioners try to wave away *Clapper* by saying it dealt with a law about "foreigners." Pet'rs'.Br.29. This Court has never cabined *Clapper* in that way. *See, e.g., Murthy*, 603 U.S. at 73 (applying *Clapper* to States and individual Americans); *California*, 2026 WL 2473573, at *2 (applying *Clapper* to States).

Petitioners argue that an increased *risk* of future injury alone suffices to show injury-in-fact. *See* Pet’rs’.Br.48-50. But Petitioners fail to show how the challenged laws substantially increase the likelihood they will be harmed, or that that their alleged future injury is sufficiently imminent. *See Lujan*, 504 U.S. at 564 n.2 (“insist[ing] that the injury proceed with a high degree of immediacy”).

The cases Petitioners rely on—*Pennell v. City of San Jose*, *Department of Commerce v. New York*, and *Mahmoud v. Taylor*—do not erase these requirements.

Pennell addressed whether a landlord’s association had standing to challenge an ordinance that limited rent increases for certain tenants. 495 U.S. 1, 7-8 (1988). The Court found that the plaintiffs had shown a “sufficient threat of actual injury,” *id.* at 8, because they were “subject to the terms of” the ordinance and “ha[d] many . . . tenants” covered by it, impacting their rental income. *Id.* at 7-8.

In *New York*, this Court determined that State plaintiffs had standing to challenge the addition of a citizenship question to the census because the district court concluded, after a trial, that adding the question would decrease census response rates of noncitizen households, thereby reducing federal funding allocated to certain States. 588 U.S. 752, 767-68 (2019).

In *Mahmoud*, the parents established standing where the school board required teachers to use LGBTQ+-inclusive texts “as part of instruction.” 606 U.S. 522, 560 (2025). This Court explained that the parents whose kids would inevitably be in those

classrooms need not “wait and see” “*how* a particular book was used or is planned for use at a particular time,” because when teachers follow the “clear and undisputed instructions of the [school b]oard,” the burden on the parents’ “religious exercise *will* occur.” *Id.* (emphasis added).

Unlike in these cases, Petitioners’ allegations here show no realistic danger of sustaining a direct injury as a result of the statutes’ operation—only conjecture about possible future injury. Their standing theory depends on “speculation about the decisions of third parties[.]” *New York*, 588 U.S. at 768, and “stack[s] hypothetical on hypothetical to speculate that harm will eventually materialize,” *California*, 2026 WL 2473573, at *2.

Petitioners also argue that this Court has sometimes found standing where the alleged injuries were years away, Pet’rs’.Br.50, but they stretch the facts of those cases and ignore that in each one the Court found that the alleged harm was virtually certain. *See Pennell*, 485 U.S. at 7; *New York*, 588 U.S. at 768; *Diamond Alt. Energy*, 606 U.S. at 117-20; *Massachusetts v. EPA*, 549 U.S. 497, 522-23 (2007).

Petitioners misread *Massachusetts* to argue that imminence can be based on a sliding scale, allowing a lower probability of injury if the injury would be severe. *See* Pet’rs’.Br.50-52. The Ninth Circuit correctly rejected this argument, explaining that Petitioners miscast the context of the *Massachusetts* comment, which arose in a discussion about redressability—not injury-in-fact. Pet.App.24a; *see also* U.S. Amicus Br. 26. *Massachusetts* never endorsed Petitioners’ argument that they need not

demonstrate a high likelihood of injury. Instead, this Court found that EPA’s refusal to regulate greenhouse gas emissions presented *actual* and *imminent* harm to the Commonwealth. *See* 549 U.S. at 521. Global sea levels had *already* risen because of global warming, and the “rising seas ha[d] already begun to swallow Massachusetts’ coastal land.” *Id.* at 522. Nothing in this analysis waived the requirement “that the injury is certainly impending.” *Lujan*, 504 U.S. at 564 n.2 (citation modified).

The decision below rightly acknowledged that an increased risk of future harm may be sufficient to confer standing in some cases. Pet.App.23a. But this recognition “does not replace the foundational rule that a future injury must be imminent in order to satisfy the injury-in-fact requirement.” *Id.* (citing *Lujan*, 504 U.S. at 564 n.2). The increased probability must bring the injury from “certainly imaginable to ‘certainly impending.’” *Id.* (quoting *Clapper*, 568 U.S. at 414). And here, Petitioners’ “allegations of *possible* future injury” are insufficient. *Clapper*, 568 U.S. at 409 (citation modified).

2. Petitioners failed to show causation and redressability

Largely because Petitioners’ alleged injuries are so speculative and dependent on the actions of third parties, they have also failed to show that those injuries are caused by the laws they challenge and would be redressed by enjoining them.

Petitioners fail to show that the challenged laws have caused or likely will cause them injury, given that the asserted causal link between the laws

and their purported injuries is so speculative. *See All. for Hippocratic Med.*, 602 U.S. at 383 (“The causation requirement precludes speculative links.”); *Clapper*, 568 U.S. at 413. As detailed above, Petitioners would come into contact with the challenged laws only if “a convoluted series of events transpires,” Pet.App.22a, one that has not occurred in over 3 years. Such speculative causal chains involving independent actions by third parties are insufficient to show causation and redressability. *See All. for Hippocratic Medicine*, 602 U.S. at 390; *Murthy*, 604 U.S. at 70; *Clapper*, 568 U.S. at 413.

Petitioners’ causation and redressability arguments also fail because they rely on alleged injuries that occurred “in the absence” of the challenged laws. *See Simon v. E. Ky. Welfare Rts. Org.*, 426 U.S. 26, 45 n.25 (1976). Petitioners allege conflicts with their children concerning gender identity, but these conflicts predate the law’s amendments. *See* Pet.App.70a-77a. Like the *Murthy* plaintiffs, Petitioners have not shown a risk of future injuries traceable to the challenged laws, given that they “‘had a similar incentive to engage in’ self-censorship” based on conflicts independent of these laws. 603 U.S. at 73 (citation omitted).

Focusing on the allegations of Petitioners 2A and 2B—the only plaintiffs with non-moot claims—highlights the problems with Petitioners’ arguments. 2A and 2B allege that the 2023 amendments caused them to fear that their child may run away. Pet.App.72a-73a. But they also allege that: “A primary reason [their children] threatened to run away . . . is because the parents declined to refer to

the children by their preferred names and pronouns.” Pet.App.101a-02a. 2A and 2B do not claim that invalidating the laws here would cause them to start referring to their children by their preferred pronouns. Thus, a “primary reason” their children threatened to run away would remain even if these laws were struck down, undermining causation and redressability. *See Simon*, 426 U.S. at 45 n.25 (rejecting causation and redressability claims because the alleged “injuries might have occurred even in the absence of the” challenged policy); *Murthy*, 603 U.S. at 73 (same).

Similarly, 2A and 2B do not allege that their minor child, 2D, has expressed interest in running away to a licensed homeless shelter. Pet.App.72a-73a. Instead, they allege that their older child, 2C, threatened to help 2D run away. Pet.App.72a. But *Clapper* emphasized that even if a plaintiff *could* show likely harm from a statute, they could not establish causation if the harm could come from another source. 568 U.S. at 413. The same is true here.

In short, Petitioners have not clearly alleged facts showing causation and redressability.

3. The organizational petitioners lack standing

Petitioners offered no argument in the Ninth Circuit that APC had standing, Pet.App.25a, and they do the same here. As to IPEC, Petitioners’ argument for standing consists of one conclusory footnote that refers to the organization’s mission and claims that it has one Washington member whose child “experiences gender confusion.” *See Pet’rs’.Br.*43 n.18. But as to IPEC’s mission, “an organization may not

establish standing simply based on the intensity of the litigant's interest' or because of strong opposition to the government's conduct[.]" *All. for Hippocratic Med.*, 602 U.S. at 394 (citation omitted). As to IPEC's one member whose child "experiences gender confusion," this vague allegation is insufficient for the same reasons as petitioner parents. *See supra* pp. 30-49.

D. Petitioners' Proposed Common Law Standing Test Ignores This Court's Precedent

This Court's precedent easily disposes of Petitioners' final argument: that they have standing because they allege violations of a private right and thus don't need to show harm apart from the alleged legal injury.

This Court rejected this argument in *TransUnion*, 594 U.S. at 427 ("[U]nder Article III, an injury in law is not an injury in fact."). "Only those plaintiffs who have been *concretely harmed* by a defendant's . . . violation" may sue in federal court. *Id.* Thus, an injury-in-fact is essential for Article III standing. *See Lujan*, 504 U.S. at 560; *Spokeo*, 578 U.S. at 341.

True, some common law "private-rights causes of action—such as for trespass, infringement of intellectual property, and unjust enrichment" "are not contingent on a plaintiff's allegation of damages beyond the violation of his private legal right." *Spokeo*, 578 U.S. at 344 (Thomas, J., concurring). But these examples all involve claims where personal harm to the plaintiff is inherent in the violation. Take trespass. The injury occurs once someone enters your

property, intruding on your right to exclude. Same with intellectual property infringement; intrusion on your exclusionary right is the harm. *E.g.*, *WiAV Sols. LLC v. Motorola, Inc.*, 631 F.3d 1257, 1264-65 (Fed. Cir. 2010). By contrast, here, Petitioners fail to show how the challenged laws have personally invaded their rights. *See TransUnion*, 594 U.S. at 427 (“Article III grants federal courts the power to redress harms that defendants cause plaintiffs, not a freewheeling power to hold defendants accountable for legal infractions.” (citation omitted)).

E. The Federal Government’s Novel Parent Standing Theory Also Fails

The federal government rejects Petitioners’ novel “object” test. U.S. Amicus Br. 13. Instead, it pushes a novel test of its own that applies only to substantive due process claims based on parental rights. In the federal government’s view, “[a]s soon as a State restricts parents’ control over the medical care their child may access, objecting parents have standing to contest that change,” “irrespective” of what “transpires in practice” or whether the child will ever “take[] advantage of the state-revised regime.” *Id.* at 4, 24. The federal government describes this as a “simple yet narrow rule,” *id.* at 4, but it opens a Pandora’s Box of questions and is irreconcilable with this Court’s precedent requiring concrete, particularized, and actual injury.

To begin with, this Court should not “invent a new doctrine of [parent] standing” because “there would be no principled way to cabin such a sweeping doctrinal change[.]” *All. for Hippocratic Med.*, 602 U.S. at 392. Why should standing be relaxed for

claims based on the unwritten guarantees of substantive due process while this Court applies normal standing rules to the written commitments in the Constitution, such as free speech, free exercise, or equal protection? *See, e.g., Murthy*, 603 U.S. 43 (free speech); *Harris*, 448 U.S. at 321 & n.24 (free exercise); *Hays*, 515 U.S. at 745 (equal protection). And why would this relaxed standing policy be limited to parents' claims about medical decisions as opposed to other decisions parents historically controlled, such as educational ones? Or would the federal government also allow parents to sue about educational policies they opposed, even if they had no effect on their own children? The federal government cannot say.

Additionally, the federal government's theory of special standing for substantive due process claims engages in the same sort of broad generalizations about substantive due process rights that this Court has long criticized. *See Dobbs*, 597 U.S. at 239-40; *Washington v. Glucksberg*, 521 U.S. 702, 721 (1997) (citing cases). The premise of the government's theory is that a parent historically had complete "authority over his or her child, and with that the right to control the entire process of deliberation [about medical decisions]—from the discussions leading up to a medical decision, to the permission culminating in the decision itself." U.S. Amicus Br. 3. But this Court has never held that, and it is demonstrably false.

The primary case the United States cites for this theory is *Parham v. J. R.*, 442 U.S. 584 (1979), but while that case certainly recognized that parents have a "substantial, if not the dominant, role" in their children's medical decisions, it also said that such decisions are still subject to "prerogatives of the child"

as well as input from physicians and the State's "significant interest." *Id.* at 604. And while *Mirabelli* recognized (in an emergency order) the likely existence of a parental "right not to be *shut out of participation* in decisions regarding their children's mental health," 607 U.S. at 497 (emphasis added), that is a far cry from "the right to control the entire process of deliberation" the federal government asserts here. U.S. Amicus Br. 3. Even the "right not to be shut out" must be cabined in some way if it is to be rooted in historical practice rather than present-day policy concerns, because at the founding minors could often make major health decisions without parental consent. For example, minors as young as fourteen could marry, e.g., *Parton v. Hervey*, 67 Mass. 119, 121-23 (1854), and then have children, with all the serious health risks attendant to that decision. If parents could not dictate those decisions then, why can they now?

The federal government's off-the-cuff substantive due process theory could also have profound consequences if accepted. Three dozen states allow some minors to consent to various types of health care, especially mental health care, without parental approval. *Supra* pp. 14-15. Are those statutes all unconstitutional? Relatedly, if States cannot "restrict[] parents' control over the medical care their child may access," U.S. Amicus Br. 4, it is hard to understand under the federal government's theory how States could deny minors access to abortion or gender-affirming care if their parents wanted it for them.

All of this is to say that it would be extraordinarily risky for this Court to adopt a new parental standing theory here that no court has ever endorsed, that has not been tested in lower courts, that is presented only in an amicus brief, and that could have far-reaching implications.

The federal government counters that rejecting its proposed rule would “create a jurisprudence of chaos,” lead to endless emergency litigation, and require impossible inquiries. U.S. Amicus Br. 4, 26. But the federal government seems to forget that it is the one asking for a new rule; for decades, this Court has required particularized, concrete, and actual harm, and the problems the United States alleges have not materialized.

At bottom, by limiting who can sue to those with concrete and particularized injuries, standing implements “the Framers’ concept of the proper—and properly limited—role of the courts in a democratic society.” *All. for Hippocratic Med.*, 602 U.S. at 380 (quoting J. Roberts, *Article III Limits on Statutory Standing*, 42 DUKE L. J. 1219, 1220 (1993)). But the federal government’s relaxed standing test would permit parents who have policy objections but no concrete injury to sue and force courts “to rule on important constitutional issues in the abstract[.]” *Hein v. Freedom From Religion Found., Inc.*, 551 U.S. 587, 635-36 (2007) (Scalia, J., concurring in judgment) (citation omitted). The Court should decline that invitation.

CONCLUSION

The Court should dismiss this case as improvidently granted or affirm the judgment below.

RESPECTFULLY SUBMITTED.

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