IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ISIS BENJAMIN; FANTASIA HORTON; NAEOMI MADISON; BRYNN WILSON; and JOHN DOE;

on behalf of themselves and all persons similarly situated,

Plaintiffs,

v.

COMMISSIONER TYRONE OLIVER, in his official capacity; ASSISTANT COMMISSIONER RANDY SAULS, in his official capacity; STATEWIDE MEDICAL DIRECTOR DR. MARLAH MARDIS, in her official capacity; and CENTURION OF GEORGIA, LLC,

Defendants.

Civ. Case No. _____

CLASS ACTION

PLAINTIFFS' MOTION FOR PROVISIONAL CLASS CERTIFICATION

TABLE OF CONTENTS

INTRODUCTION

Plaintiffs move the Court under Federal Rule of Civil Procedure 23 to certify a provisional class of all individuals incarcerated in the Georgia Department of Corrections ("GDC") who are seeking or receiving hormone therapy now proscribed by Georgia Senate Bill 185 ("SB185"), which, relevant here, imposes a blanket ban on hormone therapy treatment for gender dysphoria, regardless of medical need. Defendants are the GDC officials charged with implementing and enforcing SB185. This motion seeks provisional class certification for purposes of a preliminary injunction. Plaintiffs will move for class certification on the merits at a later stage.

Plaintiffs contemporaneously filed a Motion for Preliminary Injunction showing that Plaintiffs individually, as well as the members of the putative provisional class, face irreparable harm—loss of access to hormone therapy treatment for gender dysphoria—if SB185 is not enjoined while this case proceeds. SB185 prohibits GDC from using state resources to provide, or to continue providing, hormone therapy to treat gender dysphoria for those in custody, regardless of individual medical need. *See* O.C.G.A. § 42-5-2(e). The denial of such care and treatment is known to result in serious harms, including depression, anxiety, suicidal ideation, and physical injury or death from self-harm, castration attempts, or suicide. *See* Declaration of Randi Ettner ("Ettner Decl."), Ex 1, at ¶¶ 125, 135, 150, 167; Declaration of J. Sonya Haw ("Haw Decl."), Ex 2, at ¶¶ 42–43, 49–51,

56–57, 61–62.[1] Indeed, Plaintiffs are experiencing many of these harms now due to GDC's recent denial and termination of hormone therapy, and they stand at imminent risk of worsening symptoms. *See* Declaration of Fantasia Horton ("Horton Decl."), Ex. 4, at ¶¶ 13-26. Declaration of John Doe[2] ("Doe Decl."), Ex. 7, ¶¶ 13-15; Declaration of Naeomi Madison ("Madison Decl."), Ex. 5, at ¶¶ 17-18; Declaration of Isis Benjamin ("Benjamin Decl."), Ex. 3, at ¶¶ 17-27; Declaration of Brynn Wilson ("Wilson Decl."), Ex. 6, at ¶¶ 13-14, 16.

Class-wide preliminary injunction relief is necessary to prevent these same imminent harms from befalling the more than 100 other people in GDC custody who receive or are seeking hormone therapy. SB185 affects all class members the same way: by imposing a blanket ban on hormone therapy to treat gender dysphoria for individuals in GDC prisons, without consideration of any individual's medical needs. Eleventh Circuit precedent makes clear that the course Georgia has chosen is unconstitutional. "[R]esponding to an inmate's acknowledged medical need with what amounts to a shoulder-shrugging refusal even to consider whether a particular

[1] To avoid duplicative exhibits, Plaintiffs' Motion for Preliminary Injunction, Motion for Provisional Class Certification, and Local Rule 7.2(B) Motion for Expedited Procedure refer to a common set of numbered exhibits. Those exhibits will be attached to a forthcoming notice of filing, which Plaintiffs will file when the clerk assigns this matter a case number.

[2] John Doe will seek leave to proceed pseudonymously to protect his privacy.

course of treatment is appropriate is the very definition of 'deliberate indifference.'" *Keohane v. Fla. Dep't of Corrs. Sec'y*, 952 F.3d 1257, 1267-68 (11th Cir. 2020).

Because SB185 affects all class members the same way, Plaintiffs request that the Court certify a provisional class for a preliminary injunction. Plaintiffs meet the prerequisites in Rule 23(a) and (b)(2) for provisional certification. As to Rule 23(a), SB185's blanket ban on hormone therapy to treat gender dysphoria will affect hundreds of people who are seeking and/or receiving such care, rendering the proposed class impracticable for joinder; numerous fact and legal questions are common to Plaintiffs and the proposed class; Plaintiffs' claims are typical of the class's; and Plaintiffs and their counsel will adequately represent the class.

Rule 23(b)(2) is also met because SB185 requires GDC to "act[] or refuse[] to act on grounds that apply generally to the class." Fed. R. Civ. P. 23(b)(2). Under SB185, no Plaintiff or class member may receive hormone therapy to treat gender dysphoria, no matter what. As other courts have observed, Rule 23(b)(2) "is almost automatically satisfied in actions" like this one "primarily seeking injunctive relief." *Baby Neal for and by Kanter v. Casey*, 43 F.3d 48, 58 (3d Cir. 1994).

The Court should therefore provisionally certify a class defined as all individuals incarcerated in GDC who are seeking or receiving hormone therapy now proscribed by SB185. *See Robinson v. Labrador*, 747 F. Supp. 3d 1331, 1351 (D.

Idaho 2024) (certifying a similar class of persons who "are receiving, or would receive hormone therapy proscribed by" Idaho law).

BACKGROUND

Plaintiffs are transgender people with gender dysphoria in GDC custody who are losing access to hormone therapy due to SB185.

Plaintiffs John Doe, Brynn Wilson, and Fantasia Horton each received GDC-prescribed hormone therapy to treat their gender dysphoria before the enactment of SB185. Doe Decl. (Ex. 7) ¶¶ 7-9; Wilson Decl. (Ex. 6) ¶¶ 8-10; Horton Decl. (Ex. 4) ¶ 7-8. Hormone therapy greatly improved their gender dysphoria, alleviating their depression, anxiety, panic attacks, and other symptoms. Doe Decl. (Ex. 7) ¶¶ 10-11; Wilson Decl. (Ex. 6) ¶¶ 9-11; Horton Decl. (Ex. 4) ¶¶ 9-10, 14. All three are now being "tapered" off hormone therapy due to SB185. Doe Decl. (Ex. 7) ¶ 17; Wilson Decl. (Ex. 6) ¶¶ 13-14; Horton Decl. (Ex. 4) ¶¶ 12-22. Their gender dysphoria symptoms are sure to return without hormone therapy. Doe Decl. (Ex. 7) ¶¶ 13-15; Wilson Decl. (Ex. 6) ¶¶ 14, 16; Horton Decl. (Ex. 4) ¶¶ 23-26.

Plaintiff Isis Benjamin, who entered GDC custody in March 2025, was seeking an evaluation to restart the hormone therapy she has relied on for twenty years—almost half her life. Benjamin Decl. (Ex. 3) ¶¶ 17-24. But she has been denied an evaluation even though she received hormone therapy prior to

incarceration *and* even though GDC prescribed her hormones during a previous incarceration. Benjamin Decl. (Ex. 3) ¶¶ 9, 12-13, 21-22.

Finally, Plaintiff Naeomi Madison was also waiting to start hormone therapy. Madison Decl. (Ex. 5) ¶¶ 13-14. GDC has diagnosed her with gender dysphoria *three* times, and GDC approved hormone therapy in February 2024. Madison Decl. (Ex. 5) ¶¶ 8-10. Madison was released before she began treatment. Madison Decl. (Ex. 5) ¶¶ 10-11. Madison has reentered GDC custody, but now, because of SB185, she is cut off from the care she has been trying to receive. Madison Decl. (Ex. 5) ¶¶ 15-17.

SB185 puts Plaintiffs' health and wellbeing at grave risk. The statute prohibits "[s]ex reassignment surgeries" or any surgery performed to "alter[] primary or secondary sexual characteristics," "[h]ormone replacement therapies," and "[c]osmetic procedures or prosthetics intended to alter the appearance of primary or secondary sexual characteristics." O.C.G.A. § 42-5-2(e)(1). It further requires GDC to terminate hormone therapy for people receiving it. *See id.* § 42-5-2(e)(2)(D). It contains no exceptions for treatment deemed medically necessary care for gender dysphoria.

This represents a significant departure from the accepted standards of care for gender dysphoria, as well as GDC's own policies existing immediately before SB185's passage—all of which require individualized treatment with hormone

therapy, cosmetic procedures, and gender-affirming surgery as medically indicated based on patient need. Ettner Decl. (Ex. 1) ¶¶ 45-59, 108–123, 163-166; Haw Decl. (Ex. 2) ¶ 55; Ex. 10, SOP 507.04.68 (§§ IV.A.6; IV.C; IV.D.1.d); Ex. 9, SOP 508.40 (§§ IV.A; IV.D); Ex. 11, SOP 220.09 (§§ IV.A.6–8; IV.G; IV.K).

Defendants are the GDC officials and healthcare contractor responsible for enforcing SB185. They know from their own pre-SB185 policies that gender dysphoria is a "serious medical need[] which may not be ignored." Ex. 10, SOP 507.04.68 (§ IV.A.6). Yet they are now implementing SB185 against Plaintiffs and other transgender people in the putative provisional class and discontinuing their medically necessary hormone therapy. Doe Decl. (Ex. 7) ¶¶ 16–17; Wilson Decl. (Ex. 6) ¶¶ 13-14; Horton Decl. (Ex. 4) ¶¶ 21-22; Lecture re: SB185 Compliance Slide 10.

In early July 2025, Defendants, or their agents, informed Plaintiffs Horton, Doe, and Wilson—the three Plaintiffs previously receiving hormone therapy—that they had a Hobson's choice either to discontinue hormones immediately or be tapered off over a few months. Doe Decl. (Ex. 7) ¶ 17; Wilson Decl. (Ex. 6) ¶ 13; Horton Decl. (Ex. 4) ¶ 16. GDC denied Horton hormones the week after telling her it would taper off the treatment, and her suicidal thoughts immediately returned. Horton Decl. (Ex. 4) ¶ 21, 23. Horton received a reduced dose the next week. Horton Decl. (Ex. 4) ¶ 22. Doe and Wilson are receiving doses lower than prescribed and

will, within weeks, receive no hormone therapy at all. Doe Decl. (Ex. 7) ¶ 17; Wilson Decl. (Ex. 6) ¶¶ 13-14. There is no option to continue hormone therapy that GDC's own physicians prescribed. The other Plaintiffs cannot begin or restart hormone therapy. Benjmain ¶¶ 15-16; Madison ¶ 17. And no Plaintiff can receive any other gender dysphoria treatment. *See* O.C.G.A. § 42-5-2(e)(1).

The loss of access to gender dysphoria care, including hormone therapy, is subjecting Plaintiffs and other class members to a substantial risk of serious harm, including depression, anxiety, suicidal ideation, and physical injury or death from self-harm, castration attempts, or suicide. *See* Ettner Decl. (Ex. 1) ¶¶ 45, 125, 135, 147, 150, 155, 167; Haw Decl. (Ex. 2) ¶¶ 42–43, 49–51, 56–57, 61–62. Plaintiffs Doe, Wilson, and Horton, and proposed provisional class members receiving hormone therapy also face a risk of the severe physical effects of hormone therapy withdrawal, including "muscle wasting, high blood pressure, and neurological complications." *Fields v. Smith*, 653 F.3d 550, 554 (7th Cir. 2011); Ettner Decl. (Ex. 1) ¶¶ 153-56; Haw Decl. (Ex. 2) ¶¶ 46–49, 61. Plaintiffs are experiencing these harms now, as Defendants are already forcibly detransitioning individuals who received hormone therapy and refusing hormone therapy to those seeking it.

Defendants' implementation of SB185 affects hundreds of people. According to GDC records, there were 273 transgender people in GDC custody as of May 2025, 201 of whom have a gender dysphoria diagnosis. *See* Ex. 17, GDC May 12 Email at

1. These people are spread across the more than 94 facilities that GDC operates or oversees across the State.[3] Defendants' implementation of SB185 affects Plaintiffs and all class members the same way. Defendants will deny all transgender people individualized treatment and care for gender dysphoria, irrespective of any individual circumstance or medical need. And Defendants are already terminating hormone therapy for the more than 100 people receiving it as of June 2025. *See* Ex. 20, SB 185 Implementation Plan at 6.

Plaintiffs brought this action against Defendants, asserting that their implementation of SB185 violates the Eighth Amendment. Compl. ¶¶ 180–189. Plaintiffs simultaneously filed a Motion for Preliminary Injunction, seeking to enjoin Defendants' enforcement of SB185 as to persons seeking or receiving hormone therapy as this case proceeds. Plaintiffs now move to certify a provisional class.

ARGUMENT AND CITATION TO AUTHORITY

Because Plaintiffs satisfy all requirements of Federal Rule of Civil Procedure 23(a) and (b)(2), this Court should certify for purposes of a preliminary injunction a provisional class of all individuals incarcerated in GDC who are seeking or receiving hormone therapy now proscribed by SB185.

[3] Georgia Dep't of Corr., Facilities Div., https://gdc.georgia.gov/organization/about-gdc/divisions-and-org-chart/facilities-division (last visited Aug. 6, 2025).

As an initial matter, federal district courts have the authority to "provisionally certify a class for purposes of a preliminary injunction." *Fla. Immigrant Coal. v. Uthmeier*, __ F. Supp. 3d __, 2025 WL 1423357, at *2 (S.D. Fla. April 29, 2025), *motion for stay pending appeal denied sub nom. Fla. Immigrant Coal. v. Att'y Gen.*, No. 25-11469, 2025 WL 1625385, at *6 (11th Cir. June 6, 2025); *see also Whitaker v. Perdue*, No. 4:06-cv-0140-CC, 2006 WL 8553737, at *4 (N.D. Ga. June 29, 2006) ("The relief granted to the named Plaintiffs in the Court's June 27, 2006 Order on Plaintiffs' Motion for Temporary Restraining Order is hereby extended to all members of the provisionally certified class."). The analysis is the same as what Rule 23 would require at any other stage of the litigation. *See Uthmeier*, 2025 WL 1423357, at *13–17. The certification is provisional because it applies only to Plaintiffs' Motion for a Preliminary Injunction; Plaintiffs will seek class certification for merits purposes at a later stage. Plaintiffs plainly satisfy the standard.

I. Plaintiffs satisfy the requirements for provisional class certification under Rule 23(a).

A. The provisional class is ascertainable.

"Ascertainability is an implied prerequisite of Rule 23." *Cherry v. Dometic Corp.*, 986 F.3d 1296, 1302 (11th Cir. 2021). "[A]scertainability requires … that the class definition avoid vague or subjective criteria so that it is adequately defined. ... Put another way, if the putative class contains vague or subjective criteria, then the

certifying court cannot ascertain who belongs in the class." *De Ford v. Koutoulas*, 348 F.R.D. 724, 735 (M.D. Fla. 2025) (citing *Dometic*, 986 F.3d at 1302).

The proposed class definition—"all individuals incarcerated in GDC who are seeking or receiving hormone therapy now proscribed by SB185"—is ascertainable. GDC's own records should reveal the individuals in custody who are either seeking or receiving hormone therapy. *See* Ex. 11, SOP 220.09 (§ IV.M).

B. Plaintiffs satisfy Rule 23(a)(1)'s numerosity requirement.

Rule 23(a)(1)'s numerosity requirement permits class certification if "the class is so numerous that joinder of all members is impracticable." "[W]hile there is no fixed numerosity rule, generally less than twenty-one is inadequate, more than forty adequate, with numbers between varying according to other factors." *Cox v. Am. Cast Iron Pipe Co.*, 784 F.2d 1546, 1553 (11th Cir. 1986) (quotation omitted).

As noted, GDC has 273 transgender people in its custody, 201 of whom have a gender dysphoria diagnosis, and 126 of whom receive hormone therapy. *See* Ex. 17, DC May 12 Email at 1; Ex. 20, SB 185 Implementation Plan at 6. Because joinder of so many claims is impracticable, the volume of class members alone satisfies Rule 23(a)(1)'s numerosity requirement.

Other factors also make joinder impracticable. For example, "geographical dispersion" is a relevant factor, *Zeidman v. J. Ray McDermott & Co.*, 651 F.2d 1030,

1038 (5th Cir. 1981),[4] and Plaintiffs and putative provisional class members are at different GDC prisons around the state, such that joinder of all their claims would be impracticable. In fact, the Southern District of Florida in *Gayle v. Meade* found that the numerosity requirement was met where the class members—"detainees … being held in three ICE detention centers"—were dispersed "across different counties in South Florida," a geographically smaller region than the entire state of Georgia. 614 F. Supp. 3d 1175, 1197 (S.D. Fla. 2020).

Moreover, the numerosity requirement is met because there are future class members—individuals with gender dysphoria who will come into GDC custody during this litigation. "[T]he fluid nature of a plaintiff class—as in the prison-litigation context—counsels in favor of certification of all present and future members." *Braggs v. Dunn*, 317 F.R.D. 634, 653 (M.D. Ala. 2016) (quotation omitted); *see also Kilgo v. Bowman Transp., Inc.*, 789 F.2d 859, 878 (11th Cir. 1986) ("[T]he district court did not abuse its discretion in finding that the numerosity requirement had been met" where the class included "future and deterred job applicants, which of necessity cannot be identified."). And here, it would be obviously impracticable to join *future* class members.

[4] In *Bonner v. City of Prichard* the Eleventh Circuit adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1981. 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc).

C. Plaintiffs satisfy Rule23 (a)(2)'s commonality requirement.

Rule 23(a)(2)'s commonality requirement permits class certification if "there are questions of law or fact common to the class." Commonality "is a 'low hurdle' to overcome." *Owens v. Met. Life Ins. Co.*, 323 F.R.D. 411, 417–18 (N.D. Ga. 2017) (quoting *Williams v. Mohawk Indus., Inc.*, 568 F.3d 1350, 1356 (11th Cir. 2009)). It requires just "one issue whose resolution will affect all or a significant number of the putative class members." *Mohawk Indus.*, 568 F.3d at 1355. "That common contention must be of such a nature that is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of" the claims of all plaintiffs "in one stroke." *Carriulo v. Gen. Motors Co.*, 823 F.3d 977, 984 (11th Cir. 2016) (quotation omitted and alterations adopted).

Plaintiffs seek a preliminary injunction on their Eighth Amendment claim for deliberate indifference to medical need. That claim requires a showing of "an objectively serious medical need" and a prison official's "attitude of deliberate indifference to the serious medical need." *Stalley v. Cumbie*, 124 F.4th 1273, 1283 (11th Cir. 2024) (quotation omitted and alteration adopted). "A prison official acted with deliberate indifference if he (1) had subjective knowledge of a risk of serious harm, (2) disregarded that risk, and (3) engaged in conduct that amounts to subjective recklessness." *Id.*

Because Plaintiffs are, for purposes of the preliminary injunction, challenging a blanket policy banning hormone therapy treatment for gender dysphoria for non-medical reasons, this case presents several questions of fact and law common to all class members. Specifically, at this provisional stage, Plaintiffs' claims pose common factual and legal questions including: (1) whether gender dysphoria is a "serious medical need;" (2) whether gender dysphoria requires individualized medical treatment; (3) whether Defendants are subjectively aware that withholding the hormone therapy banned by SB185 poses a substantial risk of harm; and (4) whether Defendants' enforcement of SB 185's blanket ban on hormone therapy to treat gender dysphoria, regardless of medical necessity, including for people receiving hormone therapy prescribed by GDC physicians, constitutes deliberate indifference.

These common questions suffice for certification, as other courts have held in context of Eighth Amendment challenges to prison medical policies. For example, in *Gayle v. Meade*, a putative class of individuals in civil immigration detention challenged their confinement conditions on constitutional grounds, arguing that respondents failed to protect them from the risk of COVID-19. 614 F. Supp. 3d at 1183. The court observed that the class's claims "share[d] two main legal questions—whether ICE's conduct at the three detention centers amount to deliberate indifference and expose detainees to substantial risk of harm, and whether

such conduct results in conditions of confinement that violate Petitioners[’] constitutional rights”—and that these questions satisfied the commonality requirement. *Id.* at 1198.

Likewise, in *Braggs v. Dunn*, a challenge to “constitutionally inadequate mental-health treatment in Alabama prison[s],” the court found commonality where plaintiffs challenged “common policies and practices” that they allege “subjected” the class “to a substantial risk of serious harm,” “such as using unsupervised and unqualified nurses to conduct intake screenings, or placing prisoners with serious mental illness in prolonged segregation.” 317 F.R.D. at 640, 657. Here, the questions similarly include whether Defendants’ implementation of a blanket policy of terminating and denying gender dysphoria treatment for non-medical reasons violates the Eighth Amendment.

D. Plaintiffs satisfy Rule 23(a)(3)’s typicality requirement.

Rule 23(a)(3)’s typicality requirement permits class certification if “the claims or defenses of the representative parties are typical of the claims or defenses of the class.” “The claim of a class representative is typical if the claims or defenses of the class and the class representative arise from the same event or pattern or practice and are based on the same legal theory.” *Mohawk Indus.*, 568 F.3d at 1357 (quotation omitted). “A class representative must possess the same interest and suffer the same injury as the class members in order to be typical under Rule 23(a)(3).” *Id.* (quotation

omitted). "[T]he commonality and typicality requirements of Rule 23(a) tend to merge." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349 n.5 (2011).

Plaintiffs' Eighth Amendment claim is typical of the class members' claims for much the same reason that their Eighth Amendment claim has factual and legal commonalities with class members' claims. At the preliminary injunction stage, the proposed provisional class's and Plaintiffs' injuries all arise out of SB185's blanket ban on hormone therapy care for gender dysphoria, and their claim is based on the "same legal theory," *see Mohawk Indus.*, 568 F.3d at 1357 (quotation omitted), namely that Defendants' implementation of SB185 as a ban on hormone therapy violates the Eighth Amendment, *see Keohane*, 952 F.3d at 1267. Put another way, Plaintiffs' claim is typical of the class because neither they nor any class member can access the hormone therapy banned by SB185.

In an analogous challenge to Idaho's ban on gender dysphoria treatment, the court recognized that the plaintiffs' Eighth Amendment claim—"seek[ing] injunctive relief from [Idaho law's] prohibition of the use of state funds for hormone therapy," just as Plaintiffs do here—was typical of a class. *Labrador*, 747 F. Supp. 3d at 1346. The *Labrador* court further found typicality because, absent an injunction, "the named Plaintiffs would be subject to the same alleged injury as the proposed class—denial of hormone therapy" due to "the same course of conduct—Defendants' adherence to" Idaho law. *Id.*

As in *Labrador*, because Plaintiffs and the proposed provisional class members likewise share an injury and legal theory, Plaintiffs' claim is typical of the class. *Gayle* and *Braggs* are again instructive. In *Gayle*, the court found typicality where the petitioners alleged "the same injury" arising from "the same confinement under the same unconstitutional conditions caused by the same entity, which is exposing them all to an unreasonable heightened risk of illness." 614 F. Supp. 3d at 1198. And in *Braggs*, the plaintiffs' Eighth Amendment claims satisfied the typicality requirement because they were "exposed to the policies or practices that create the substantial risk of harm they challenge." 317 F.R.D. at 664. For similar reasons, these Plaintiffs, too, satisfy the typicality requirement.

E. Plaintiffs satisfy Rule 23(a)(4)'s adequacy requirement, and Plaintiffs' counsel are qualified to be class counsel under Rule 23(g).

Rule 23(a)(4)'s adequacy requirement permits class certification if "the representative parties will fairly and adequately protect the interests of the class." The adequacy requirement has two prongs: "(1) whether any substantial conflicts of interest exist between the representatives and the class; and (2) whether the representatives will adequately prosecute the action." *In re Equifax Inc. Customer Data Sec. Breach Litig.*, 999 F.3d 1247, 1275 (11th Cir. 2021) (quotation omitted). "This requirement applies to both the named plaintiff[s] and [their] counsel." *Jones v. Advanced Bureau of Collections LLP*, 317 F.R.D. 284, 292 (M.D. Ga. 2016).

Plaintiffs and their counsel meet both prongs, and Plaintiffs' counsel should also be appointed class counsel under Rule 23(g).

No substantial conflict exists between the Plaintiffs and the class members. Doe Decl. (Ex. 7) ¶ 18; Wilson Decl. (Ex. 6) ¶ 17; Horton Decl. (Ex. 4) ¶ 29; Benjamin Decl. (Ex. 3) ¶ 29; Madison Decl. (Ex. 5) ¶ 20. A conflict will defeat class certification only "where some party members claim to have been harmed by the same conduct that benefitted other members of the class." *In re Equifax*, 999 F.3d at 1275 (quotation omitted). No Plaintiff or class member has benefited from the cessation of hormone therapy. Plaintiffs share with all class members an interest in accessing hormone therapy for their gender dysphoria.

Plaintiffs also will adequately prosecute the action. They have all sworn that they understand the responsibility of being a named plaintiff and that they will represent the interests of the class. Doe Decl. (Ex. 7) ¶ 20; Wilson Decl. (Ex. 6) ¶ 18; Horton Decl. (Ex. 4) ¶ 31; Benjamin Decl. (Ex. 3) ¶ 31; Madison Decl. (Ex. 5) ¶ 22.

Plaintiffs are also represented by a team of experienced lawyers whose firms have successfully handled class action and civil rights litigation. Declaration of Amanda Kay Seals ("Seals Decl.") at ¶¶ 3–6, 8; Declaration of Emily C.R. Early ("Early Decl.") at ¶¶ 3–5. Counsel have expertise in the legal issues facing Plaintiffs and the class, having previously litigated Eighth Amendment claims on behalf of

incarcerated transgender people. Seals Decl. at ¶ 12. Counsel have sworn that they will commit the resources to see this case through. Seals Decl. at ¶ 13; Early Decl. at ¶ 17. Plaintiffs therefore meet the second prong of the adequacy requirement.

Plaintiffs' counsel are qualified to be appointed class counsel for much the same reasons. Federal Rule of Civil Procedure 23(g) requires the Court to appoint class counsel when it certifies a class. Rule 23(g) requires consideration of: "the work counsel has done in identifying or investigating potential claims in the action;" "counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action;" "counsel's knowledge of the applicable law;" and "the resources that counsel will commit to representing the class." Fed. R. Civ. P. 23(g)(1)(A). On each count, Plaintiffs' counsel are qualified to serve.

Plaintiffs' counsel invested significant time investigating the claims in this action, including visiting GDC facilities to determine how Defendants planned to enforce SB185. Seals Decl. ¶ 13; Early Decl. ¶ 16. Plaintiffs' counsel have also handled many class actions and other complex litigation. Seals Decl. ¶¶ 4-6, 8, 13; Early Decl. ¶ 3-4. Plaintiffs' counsel are knowledgeable in the applicable law, having successfully handled Eighth Amendment and other litigation under 42 U.S.C. § 1983. Seals Decl. ¶ 12; Early Decl. ¶ 4-6. And counsel have averred that they will commit the necessary resources to the case. Seals Decl. ¶ 13; Early Decl. ¶ 17.

Plaintiffs' counsel have thus shown they should be appointed class counsel under Rule 23(g).

II. Plaintiffs satisfy Rule 23(b)(2)'s requirements for an injunction class.

Under Rule 23(b)(2), the Court may certify a class if Defendants have "acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." "The key to the (b)(2) class is the indivisible nature of the injunctive or declaratory remedy warranted—the notion that the conduct is such that it can be enjoined or declared unlawful only as to all of the class members or as to none of them." *Dukes*, 564 U.S. at 360 (quotation omitted). Rule 23(b)(2) "has been liberally applied in the area of civil rights," and "some courts have gone so far as to say that the rule's requirements 'are almost automatically satisfied in actions primarily seeking injunctive relief.'" *Braggs v. Dunn*, 317 F.R.D. 634, 667 (M.D. Ala. 2016) (quoting *Baby Neal*, 43 F.3d at 59).

This is a textbook case for provisional class certification under Rule 23(b)(2). GDC's implementation of SB185 as a blanket ban on hormone therapy to treat gender dysphoria requires it to "act[] or refuse[] to act on grounds that apply generally to the class." Fed. R. Civ. P. 23(b)(2). Each member of the provisional class faces the same denial of individualized hormone therapy treatment for gender dysphoria under the same blanket ban mandated by SB185. And relief "is

appropriate respecting the class as a whole" because a preliminary injunction would lift the blanket ban and require GDC to return to the status quo: the provision of hormone therapy and evaluations for hormone therapy to Plaintiffs and all other putative provisional class members based on a determination of medical necessity. *Id.*

The proposed class is also consistent with courts around the country that have certified preliminary injunction classes under Rule 23(b)(2) when prison policy applies to everyone in custody in the same way. For example, the *Labrador* court had no trouble concluding that the challenge to the analogous Idaho ban could proceed as a Rule 23(b)(2) class because the "refusal to administer hormone injections applies generally to the proposed class," and an "injunction on the [Idaho law] would provide relief to each class member, and in no way differentiates between class members." 747 F. Supp. 3d at 1349.

The same was true in *Uthmeier*, where "[t]he proposed class members all face the common risk of being subject to enforcement of S.B. 4-C," a Florida law criminalizing illegal entry and reentry and which the *Uthmeier* plaintiffs challenged on constitutional grounds. 2025 WL 1423357, at *15. In *Braggs,* the district court certified a Rule 23(b)(2) class because the injunctive relief sought "will ensure that the statewide prison mental-health care system, with which all class members

interact, is not operated pursuant to policies and practices that subject all prisoners to a substantial risk of serious harm." 317 F.R.D. at 669.

Plaintiffs' and the putative provisional class members' claim for relief fall into this category as well, as this is a constitutional challenge to a law that applies to all class members the same way, and the requested injunctive relief will apply to the proposed provisional class as a whole. Thus, federal law warrants granting provisional certification for the purpose of preliminary injunctive relief.

CONCLUSION

For these reasons, the Court should certify a provisional class for purposes entering a preliminary injunction of: All individuals incarcerated in GDC who are seeking or receiving hormone therapy now proscribed by SB185. The Court should also appoint the undersigned as class counsel pursuant to Rule 23(g).

Respectfully submitted this 8th day of August 2025,

/s/ Amanda Kay Seals
Amanda Kay Seals
GA Bar No. 502720
[redacted]
Matthew R. Sellers
GA Bar No. 691202
[redacted]
BONDURANT, MIXSON & ELMORE, LLP
1201 W Peachtree St NW
Suite 3900
Atlanta, GA 30309
Phone: (404) 881-4100
Fax: (404) 881-4111

Emily C. R. Early,
GA Bar No. 810206
[redacted]
A. Chinyere Ezie*
[redacted]
Celine Zhu*
[redacted]
CENTER FOR CONSTITUTIONAL RIGHTS
666 Broadway, 7th Floor
New York, NY 10012
Phone: (212) 614-6464

D. Korbin Felder*

[redacted]
CENTER FOR CONSTITUTIONAL RIGHTS
P.O. BOX 12046
Jackson, MS 39236
[redacted]

**Pro hac vice* admissions forthcoming

Counsel for Plaintiffs

CERTIFICATE OF COMPLIANCE

I certify that **PLAINTIFFS' MOTION FOR PROVISIONAL CLASS CERTIFICATION AND BRIEF IN SUPPORT** was prepared using Times New Roman 14-point font, which is one of the font and point selections approved by the Court in Local Rule 5.1(C).

/s/ Amanda Kay Seals