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Born Perfect on 11th Circuit Court Ruling on Conversion Therapy Bans in Boca Raton and Palm Beach, FL

“Today’s decision showed a shocking disregard for the overwhelming medical consensus that conversion therapy is harmful and dangerous, and that no young person should ever be subjected to this practice under any circumstances.”

ATLANTA, GA — Today, in a split decision, a three-judge panel of the Eleventh Circuit issued a decision today striking down local laws in Boca Raton and Palm Beach County, Florida protecting minors from undergoing conversion therapy by licensed mental health providers. The divided court held that laws that regulate “talk therapy” are subject to the same strict scrutiny applied to laws that restrict political speech.

Both Judge Britt Grant, the author of the majority opinion, and Judge Barbara Lagoa, who joined it, were appointed by President Trump. Judge Beverly B. Martin, an appointee of President Obama, wrote a dissent finding that even if strict scrutiny applied, which she questioned, the law would be valid because it is based on an overwhelming medical consensus that conversion therapy is harmful and unethical.

Today’s ruling by the Eleventh Circuit applies only to Florida, Georgia, and Alabama. As a practical matter, it applies only to local laws enacted in Florida, since neither Georgia nor Alabama have enacted any conversion therapy laws.

To date, 20 states and more than 85 localities have passed laws protecting minors from conversion therapy.

Statement from Mathew Shurka, Born Perfect Strategist:

“Every person in this country should be concerned by federal courts ignoring science and striking down laws that protect vulnerable young people from dangerous and unethical practices by licensed mental health providers. Today’s decision showed a shocking disregard for the overwhelming medical consensus that conversion therapy is harmful and dangerous, and that no young person should ever be subjected to this practice under any circumstances. We will continue to push for these laws and to help cities and states defend them when they are challenged.”



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Statement from Shannon Minter, NCLR Legal Director:

“The majority decision is an outlier and takes an extreme view of the First Amendment, holding that any regulation of talk therapy must survive strict scrutiny. Similar laws have been reviewed and upheld by two other federal courts of appeal, both of which held that these laws regulate the provision of mental health care and are valid exercises of the government’s authority to protect public health and safety. As the dissent in today’s ruling pointed out, the majority opinion ignores a ‘mountain of rigorous evidence’ that conversion therapy puts minors at risk of serious harms.

Some commentators have noted that because there is now a circuit split on the constitutionality of these laws, the Supreme Court might hear this case. While that could happen, it is not clear that the defendants in this case, two Florida localities, will seek Supreme Court review. Given how out of step this decision is, they are more likely to consider asking the Eleventh Circuit as a whole to reconsider this case.

But even if this issue were to reach the Supreme Court, there are strong precedents supporting the authority of state and local governments to regulate licensed health care providers and to pass laws to protect public health and safety.

For example, in a recent decision declining to stay California’s executive order closing many different public gatherings, including those involving religious services, *South Bay United Pentecostal Church v. Newsom*, Chief Justice John Roberts wrote:

Our Constitution principally entrusts “[t]he safety and the health of the people’ to the politically accountable officials of the States ‘to guard and protect.” *Jacobson v. Massachusetts*, 197 U. S. 11, 38 (1905). When those officials “undertake[] to act in areas fraught with medical and scientific uncertainties,” their latitude ‘must be especially broad.’ *Marshall v. United States*, 414 U. S. 417, 427 (1974). Where those broad limits are not exceeded, they should not be subject to second-guessing by an “unelected federal judiciary,” which lacks the background, competence, and expertise to assess public health and is not accountable to the people.

In light of this strong precedent, I am optimistic that even a conservative Supreme Court would uphold these laws, if and when the issue reaches them.”

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Born Perfect is a survivor-led campaign created by the [National Center for Lesbian Rights \(NCLR\)](http://nclr.org) in 2014 to end conversion therapy by passing laws across the country that protect LGBT children and young people, fighting in courtrooms to ensure their safety, and raising awareness about the serious harms caused by these dangerous practices.

<http://bornperfect.org/>