

WE SAY GAY & TRANS!

Lambda Legal and partners go to court to argue that Florida's law known as "Don't Say Gay or Trans" erases LGBTQ+ students and families



PICTURED ABOVE: The Dinan Gongidi family.

In early July, David Dinan and Vikranth Gongidi and their two sons, happened to be in London during Pride and decided to attend a portion of the London Pride parade in between their already planned sightseeing. It provided a spontaneous opportunity to discuss the meaning of Pride with their sons – being true to who you are, expressing who you are, being in a safe place to be who you are, and being there to support others. They watched part of the parade from near Green Park in a section where there were many other families.

Their 8-year-old son, identified in our filing as R.R.D., who is in third grade, loved the energy of the parade and is dying to tell his friends about it back at school in Vero Beach, Florida. There's just one problem: Should he do so, and should another student say "Wait – you have two dads? That's weird!", their teacher would likely not be able to say something as simple and affirming as, "Yes, we all have different kinds of families who love us, and that's okay."

Why not? Because Florida's internationally notorious new law HB 1557, known as "Don't Say Gay or Trans" and signed into existence by Florida Governor

Ron DeSantis in March, bans discussion of sexual orientation and gender identity in grades K-3 – and restricts such discussions for students through grade 12.

The law's wording is so broad and vague, in fact, that many Florida teachers are worried they could be disciplined or fired for even quietly affirming a remark as R.R.D.'s teacher might make – never mind an actual lesson about LGBTQ+ people. The law demands that school districts implement its terms, and it empowers parents to file vigilante lawsuits against a school district if they are dissatisfied with its implementation of the law.

"We are deeply concerned about the negative effect that HB 1557 has upon our family," say Dinan and Gongidi. "The law forces us, our kids and their teachers to self-censor for fear of prompting responses from our children's teachers and classmates that would isolate our children and make them feel ashamed of their own family."

That's why Dinan and Gongidi are plaintiffs in a federal lawsuit challenging "Don't Say Gay or Trans" filed in late July by Lambda Legal, the Southern Poverty Law



PICTURED ABOVE: Will Larkins, at home with his family.

Plaintiff Will Larkins, a rising senior at Winter Park High School in Orange County, Florida says,

“ I am concerned that this law will eviscerate any hope of healthy and important discussions about LGBTQ+ issues or historical events, which are already lacking in our schools. Because of the vague language of the law, closed-minded parents are emboldened to become vigilantes to force their beliefs upon other people’s children by suing the school district over anything they disagree with. ”

Center (SPLC), Southern Legal Counsel (SLC), and private counsel Baker McKenzie. The lawsuit argues that the law effectively silences and erases LGBTQ+ students and families.

“The purpose and effect of this breathtakingly broad law is to silence LGBTQ+ students and families, and the law’s imprecision intensifies its chilling effect. Because the law invites any parent dissatisfied with a school’s censorship of LGBTQ+ related speech to sue the school district and collect attorney fees, it causes schools to aggressively control discussions that might trigger the type of discriminatory moral objection that gave rise to this law,” said Kell Olson, Lambda Legal Staff Attorney.

“Already, schools have cut anti-bullying guidance for teachers and pulled books from shelves,” Olson continued. “LGBTQ+ parents are struggling to find gentle ways to explain to their children why they won’t be able to talk openly about their families when they go back to the classroom. This discriminatory law puts students at risk and sends a message of shame and stigma that has no place in schools.”

Joining Will Larkins and the Dinan and Gongidi family as plaintiffs are Jennifer and Matthew Cousins. “This law will prevent our two youngest children, rising first and third graders, from discussing their older non-binary sibling in the classroom for fear of their teacher or their school getting in trouble,” they say.

The final plaintiff is Centerlink, Inc., a LGBTQ+ nonprofit based in Florida that is suing on behalf of affected member centers in the state, whose members will be affected by HB 1557. Lambda Legal and its partners filed the lawsuit in the U.S. District Court for the Middle District of Florida.

“We have to get this law off the books,” says Olson. “It’s not only censoring students and teachers who are trying to do the right thing in teaching respect for diversity, but it’s also trying to shove LGBTQ individuals and families back into invisibility and silence. And we won’t go there.”



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PICTURED ABOVE: The Cousins family.

LAMBDA LEGAL'S PLAN FOR REGAINING, RETAINING, AND EXPANDING REPRODUCTIVE AND OTHER FUNDAMENTAL RIGHTS FOR LGBTQ+ FOLKS

As you surely know by now, the U.S. Supreme Court overturned *Roe v. Wade* and *Planned Parenthood v. Casey* in an outrageous end-of-June ruling. At Lambda Legal, we know that this ruling, which cavalierly erased 50 years of constitutional protection for abortion rights, is simply wrong legally. According to Jenny Pizer, Lambda Legal's Acting Chief Legal Officer, "The decision in *Dobbs v. Jackson Women's Health Organization* has caused immediate crises for many LGBTQ+ people who need access to abortion care. Lives are already at stake. This is unacceptable."

And the threats to other essential civil rights of LGBTQ+ people are only just beginning, as Justice Clarence Thomas made ominously clear in his concurring opinion. With a shocking lack of concern for resulting harms, he called for reconsideration of the Court's landmark decisions protecting use of

contraception and our own victories in *Lawrence v. Texas* (invalidating remaining state sodomy laws) and *Obergefell v. Hodges* (winning marriage equality nationwide).

Unlike Thomas's concurrence, the *Dobbs* majority said its decision was only about abortion. But the majority's reasoning belies that attempted reassurance. It used a blatantly cherry-picked version of history to erase a core personal freedom, supposedly because it was not explicitly recognized either in the late 1700s or the mid-1800s.

As Pizer points out, "Limiting constitutional rights to centuries-old conceptions slams the door for women, LGBTQ+ people, and many others. It flouts the role of our Constitution, especially the post-Civil War guarantees to all of us of liberty and equal protection."



This matters because, at their core, such rights as to whether to use contraceptives, to continue a pregnancy, with whom and how to be sexually intimate, whether to physically align one's body with one's gender identity, and other major life decisions are about personal autonomy and self-determination. To win our LGBTQ+ civil rights battles, we argued that Twentieth Century landmarks securing family privacy and equality apply to our lives, too. Now, all of these essential freedoms are at risk.

This is why Lambda Legal is responding powerfully. Our team is:

- Already hard at work crafting new litigation strategies and building support for federal and state legislation to protect LGBTQ+ people and people living with HIV.
- Leading calls to reform our courts and restore the integrity of our democracy.
- Working closely with the current federal government and many important federal agencies that value LGBTQ+ people and are open, and even eager, to better serve those in our communities.
- Fighting strategically in state and federal courts coast-to-coast on behalf of LGBTQ+ people and people living with HIV, and we are still winning.

You, too, can join the fight by giving of your...

- **VOICE.** Contact your elected representatives when Lambda Legal calls out protective legislation to support or anti-LGBTQ+ bills to oppose.
- **VOTE:** Support and vote for candidates and policies that restore and protect our civil rights, personal freedom, and democracy itself.
- **TIME:** Educate yourself, volunteer for something, and urge your friends, neighbors, and family members to participate, too.
- **MONEY:** Support Lambda Legal's litigation, policy, and public-education work!

DEMOCRACY IN CRISIS

Lambda Legal and other LGBTQ+ legal groups demand immediate reforms such as additional seats and an enforceable ethics code for SCOTUS

At the end of the most recent U.S. Supreme Court term, Lambda Legal led a coalition of litigating organizations, including GLBTQ Legal Advocates & Defenders, the National Center for Lesbian Rights, and the Transgender Law Center, in issuing a call for immediate, essential reforms to the Court, including increasing its seats from 9 to 13.

"We believe the time is long past due to recommit to the essential protections of liberty and equality and the right to vote for all Americans and for generations to come," reads our call. "The Supreme Court has lost the public's confidence in its integrity and has eroded its own legitimacy."

The reforms that Lambda Legal supports include expanding the number of seats on the Court to 13 – to match the number of circuits in the federal judiciary –

restoring voting rights, adopting an enforceable ethics code for the Supreme Court, and lifting the filibuster to allow the Senate to consider all of these proposals. Says Ethan Rice, Senior Attorney, Fair Courts Project for Lambda Legal: "To justify its elimination of some protections and substantial constriction of others, the current Supreme Court has employed ahistorical readings of American history, and inappropriate and unworkable legal analysis that limits our essential rights to those recognized centuries ago. This type of analysis has and will continue to exclude many of the protections recognized for decades in this country, including specific protections for women, people of color, and LGBTQ+ people, among others."

"Past courts have rejected this error repeatedly because it ignores the core understanding that we have a constitution, not a code or catalog that is written in deep detail," continued Rice. "It was and is intended to remain relevant for future generations. The Constitution was written with broad protective principles to safeguard the rights and freedoms of all over time, not just the historic, powerful few."

Among extreme actions taken by the Supreme Court in recent years, Lambda Legal cited:

- > Eliminating the freedom to decide to end a pregnancy
- > Requiring taxpayer funding of religious education
- > Approving religious worship activity by public school employees while in their official roles
- > Undermining the *Miranda* rules that offered basic protections in criminal-justice proceedings
- > Narrowing the doctrine that has allowed the seeking of compensation by those injured during violation of their constitutional rights by government agents
- > Blocking lower federal court orders directing Louisiana to review its new congressional maps because they were discriminatory
- > Inflating the individual right of gun possession

"And this surely isn't the end of extreme actions we could see from the Supreme Court in coming terms," says Rice. "That's why we need to push for these reforms immediately. It's incumbent upon us all to call our representatives in Congress and tell them to support the Judiciary Act of 2021." 

 Lambda Legal

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will never be silent.

-HARVEY MILK