



Written by [Raven Clabough](#) on April 21, 2014

## California High Court May Ban Judges Affiliated With Boy Scouts

The state of California is working to ban individuals from serving as judges if they are affiliated with the Boy Scouts of America because of the Scouts' policy of prohibiting homosexual troop leaders. The move, which it has major legal implications, comes from the California Supreme Court Advisory Committee on the Code of Judicial Ethics. Various organizations are warning that such a decision could create a slippery slope by telling judges how they must think in order to serve on the judiciary.



In 1996, the California Supreme Court decided to prohibit judges from belonging to groups that discriminate on the basis of sexual orientation but made exceptions for non-profit youth groups. The *LA Times* writes, "Efforts to change the policy in 2003 failed, but the court advised judges to disclose their membership in cases where it might be relevant and to be prepared to step away if a litigant questioned the jurist's impartiality."

The committee is now proposing to classify the Boy Scouts as a group that practices "invidious discrimination" against homosexuals. The online Daily Caller explains that doing so would "end the group's exemption to anti-discriminatory ethics rules and would prohibit judges from being affiliated with the group."

Last year, the Boy Scouts decided to allow membership of openly gay boys under the age of 18, but the group continues to ban gay and lesbian adults from serving as leaders.

On June 28, 2000, the U.S. Supreme Court ruled that the Boy Scouts of America could not be compelled by a New Jersey anti-discrimination law to permit the inclusion of openly homosexual scout leaders. The 5-4 decision determined that to force the Boy Scouts to allow openly homosexual leaders would be a violation of the BSA's First Amendment right and that the government cannot force the organization to violate its own sense of morality.

What the California Judicial Committee is proposing ultimately disregards the Supreme Court ruling, and creates a slippery slope that could have a negative impact on judges who hold conservative affiliations or views.

Catherine Short, legal director for the pro-life group Life Legal Defense Foundation, notes this in a letter addressed to the committee wherein she outlines the potential precedence that the committee's decision could have on pro-life judges in the future. She writes:

The Committee's invitation ignores the fact that the change also encompasses other youth organizations whose membership is limited on the basis of gender, e.g., the Girl Scouts, as well as the military, which continues to practice 'discrimination' on the basis of gender.

Perhaps this is not an unintended consequence. This proposed amendment has as its overtly-stated



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purpose the branding of the BSA as an organization whose members must be assumed to be biased and thus unfit for the bench. The Committee states that “eliminating the exemption ... would enhance public confidence in the impartiality of the judiciary.”

On the contrary, by promoting a hierarchy of politically favored “victim” status through pointlessly impugning the integrity of members of a venerable American institution, the proposed Amendment will communicate to the public that judges are being told by the California Supreme Court what to think, whom they may associate with, and what are permissible opinions to hold, and that only those who toe the line will be allowed to sit on the bench. The public can hardly expect impartiality from the judiciary in such a climate of intolerance.

According to Bryan Fischer, director of issues analysis for the American Family Association, the Boy Scouts of America should not have lifted its ban on permitting openly gay members because the move only served to anger current members while failing to please the gay lobby:

The BSA only abandoned the sexual standards that had guided the organization since its founding out of craven capitulation to the deviancy cabal, which insisted on it as the price of admission to their version of polite society. But the move was destined to fail because the BSA didn’t go the full Monty and allow homosexuals to serve as scoutmasters.

Fischer also notes the supreme hypocrisy in the move to ban any man from serving as a judge who has ever had any affiliation with the Boy Scouts. “This is Orwellian to an astonishing degree, a fact made more notable by the fact that the members of this committee seem fatuously oblivious to the reality that they are practicing the very sins they condemn,” Fischer points out. “The Supreme Court, in the name of tolerance, would be terminating with extreme prejudice the judicial careers of anyone who does not hold pre-approved opinions about the wonders of sodomy.”

The period for public comment on the proposal ended April 15. The California Supreme Court will soon vote to either approve or reject the prohibition, which if passed would take effect in August.



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