

TEXT ORDER. The Government's Motion to Stay or Transfer Venue (ECF No. 8) is DENIED. When deciding whether to apply the first-to-file rule, courts must consider: "(1) which action was filed first; (2) the similarity of the parties; and (3) the similarity of the issues." *Waithaka v. Amazon.com, Inc.*, 404 F. Supp. 3d 335, 350 (D. Mass. 2019), *aff'd*, 966 F.3d 10 (1st Cir. 2020). While the Texas enforcement action was filed first, the remaining factors are not satisfied. The parties are not similar: the Child Advocate was not a party to the Texas proceeding, had no notice of those proceedings, and had no opportunity to be heard there. Rhode Island Hospital, the only party before the Texas court, is not a party here. The issues are not similar: the Texas court adjudicated the enforceability of the subpoena as between the government and Rhode Island Hospital; this Court is asked to adjudicate the independent constitutional privacy rights of minor patients who were never before any court. Those claims were neither raised nor considered in Texas and could not have been, as the affected parties were absent. The first-to-file rule does not apply. So Ordered by District Judge Mary S. McElroy on 5/7/2026. (Potter, Carrie)