

Legislative Testimony

In Opposition to House Bill 2426
House Committee on Judiciary
January 13, 2025

Written Only Testimony

Chair Humphries and Members of the Committee,

My name is Logan DeMond, and I am the Director of Policy and Research at the American Civil Liberties Union of Kansas. The ACLU of Kansas is a nonprofit, nonpartisan organization with more than 35,000 supporters statewide that works to protect and strengthen the civil rights and liberties of all Kansans. On behalf of the ACLU of Kansas, I am writing in opposition to House Bill 2426. HB 2426 would require the state of Kansas to invalidate legally issued birth certificates and driver's licenses, compel Kansans to surrender their identification, and replace those documents with information dictated by the Legislature rather than lived reality. In doing so, this bill would make it harder for people to vote, work, obtain housing, access healthcare, travel, and interact with law enforcement while imposing significant administrative burdens on state agencies. This legislation does not solve an existing problem; rather, it creates new ones by targeting a small and vulnerable group of Kansans, subjecting them to unequal treatment, undermining their privacy, and destabilizing the identity documents that they rely on every day. HB 2426 will make Kansans less safe, government less efficient, and our laws less fair.

Lessons from *Kansas v. Harper*

In 2023, Kansas Attorney General Kris Kobach filed a lawsuit in state court (Associated Press, 2023) against the Kansas Department of Revenue. In reliance on Senate Bill 180, a 2023 Kansas statute targeting transgender individuals, the Attorney General asked the court to prohibit transgender people from changing the gender markers on their driver's licenses to reflect their gender identity, and to require the state agency to list sex assigned at birth on all new and renewed licenses.

Shortly thereafter, the ACLU of Kansas, the ACLU, and Stinson LLP successfully intervened in the case on behalf of transgender Kansans threatened by the Attorney General's lawsuit. They argued not only that the plain text of SB 180 did not actually apply to driver's licenses, but also that if SB 180 were intended to apply to licenses, it would violate transgender Kansans' constitutional rights to privacy, bodily autonomy, and equality.

Although the case remains pending, the Kansas Court of Appeals unanimously held last summer that Attorney General Kobach was unlikely to prevail on his view that SB 180 requires all new and renewed driver's licenses to list the driver's sex assigned at birth. And of particular relevance to debate over HB 2426, the appellate court in *Harper* found nothing "beyond mere speculation" to support the proposition that allowing transgender individuals to change their

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gender markers would impair the identification of criminal suspects. The appellate court also left open the intervenors' constitutional arguments, which would apply equally to HB 2426. *Kansas v. Harper* provides abundant evidence that laws like HB 2426 do nothing to make us safer. Rather, they leave the state vulnerable to costly litigation and violate countless people's constitutional rights in the process.

Government-Mandated Identity Changes

Setting aside the proposed bill's legal inadequacies, HB 2426 remains deeply flawed. The bill would impose sweeping, government-mandated identity changes that harm Kansans and create serious practical and administrative problems. HB 2426 would invalidate previously issued driver's licenses and birth certificates if the sex marker on those documents does not align with a rigid, birth-based definition adopted by the Legislature and compels state agencies to reissue those documents and requires affected individuals to surrender their existing identification. This is not a neutral administrative update, but a state-mandated revocation of legally recognized identity documents that Kansans have relied on for years to work, travel, vote, work, access housing, travel, and engage in daily life.

HB 2426 would also impose significant burdens on state agencies by requiring them to retroactively review, invalidate, notify, and reissue identification documents. These processes would require time, staff resources, and funding, none of which are meaningfully addressed in the bill.

At its core, HB 2426 asks the government to do something it should not do: police identity in a way that makes people less safe and less free. Identity documents exist to help the government function and to help individuals navigate their lives—not to enforce ideology or invite discrimination. Kansas does not become safer, stronger, or more efficient by stripping people of valid identification and forcing them into legal invisibility.

When identification documents are accurate and stable, communities are safer, government is more efficient, and individuals are less likely to experience discrimination or harm. HB 2426 moves Kansas in the opposite direction. If enacted, this bill would:

- Force transgender Kansans to carry identification that does not reflect who they are, exposing them to harassment and potential violence while constituting an unconstitutional form of compelled speech.
- Create barriers to employment, housing, education, healthcare, and voting, where identification is routinely required.

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- Impact intersex individuals whose bodies do not fit neatly into the bill's narrow definitions.
- Undermine privacy by requiring people to disclose deeply personal information to explain why their government-issued ID does not match their presentation.

Conclusion

HB 2426 risks setting a dangerous precedent by forcing the state to revoke valid identification, reverse years of settled policy, and insert government control into some of the most personal aspects of people's lives. This legislation would make everyday tasks more dangerous and difficult for transgender and intersex Kansans, while placing unnecessary burdens on state agencies, and inviting taxpayer-funded legal challenges. On behalf of the ACLU of Kansas, I respectfully urge the Committee to reject HB 2426 and to choose policies that uphold dignity, stability, and equal treatment for all Kansans.

Logan DeMond
Director of Policy and Research

References

Associated Press. (2023, July 7). *Kansas attorney general sues to prevent transgender people from changing birth certificates, licenses*. <https://apnews.com/article/transgender-birth-certificates-licenses-kansas-29d3a02fa44ec9dbfe28979ea8221591>.