

ACLU

Kansas

2019 LEGISLATIVE UPDATE



**PROTECT.
DEFEND.**



The ACLU of Kansas broke new ground on **voting rights protections** while **blocking attacks on immigrants and reproductive rights**.

The 2019 Kansas Legislative Session opened optimistically for civil liberties and civil rights advocates hopeful that changes in leadership might usher in a new era of bipartisanship and progress. But conflicts only escalated with renewed extremist attacks on LGBTQ Kansans, women's reproductive rights, and immigrants, while action stalled on sorely needed criminal justice reforms.

Still, we responded with a strong legislative offense and a rugged legislative defense.

We pushed Election Day Registration onto the legislative radar through unprecedented hearings in the House and the Senate election committees. We prevailed on Senate Bills 129 and 130, which mandated that County Clerks attempt to correct a signature mismatch before rejecting ballots. We also blocked a hearing on a House bill giving ICE agents the power to make warrantless arrests. Lastly, when the legislature passed a bill requiring doctors to misinform women about "abortion reversal" and the governor vetoed it, we lobbied to support her veto, which the House sustained by a single vote.

This 2019 session, we held important political ground while paving the way for new legislative endeavors next session.

Election Day Registration has promising legislative introduction

Election Day Registration (EDR) has been a top priority for Kansans trying to strengthen citizen participation and access to democracy. It would have been the single biggest improvement in poll accessibility since former Secretary of State Kris Kobach lost his documentary proof of citizenship case.

This year, EDR legislation moved further than it ever has. The ACLU Policy Director presented our report on the local election policies and voter turnout of all 105 Kansas counties, *All Democracy Is Local*, in the House Elections Committee. This prompted a hearing on Election Day Registration. The Senate also held a hearing on the bill. Although the House committee eventually voted down the bill 7-5 and the Senate bill died in committee, this marked the first time the ACLU had presented to these committees and the first time a committee held hearings or a vote on EDR.

Two bills pass, making more eligible votes count

Although conservative lawmakers defeated EDR, Gov. Kelly signed into law two other bills that strengthen our democracy and positively impact citizen participation in our elections. The first, SB 130, requires County Clerks to resolve a signature mismatch on a mail-in ballot, while SB 129 allows Clerks to expand citizens' voting access to any county polling location rather than limiting a voter to just one location in the voter's own precinct. SB 130 means more ballots cast by eligible voters will count, while SB 129 means improved poll access.

These bills mark the first expansion of Kansas voting rights in years.

One of this session's biggest victories: blocking warrantless ICE arrests

Stopping an egregious bill giving armed federal agents freedom to make warrantless arrests was one of this session's most significant victories. Supporters of HB 2355 introduced it in the typically low-profile Commerce, Labor and Economic Development Committee. We knew that language in the bill, which broadened armed federal agents' power, would include Immigration and Customs Enforcement (ICE), whose blatant disregard for civil rights is well-documented.

Testimony flooded in from a variety of organizations concerned that ICE would begin targeting immigrants in their communities. Many people wrote to Chair Tarwater expressing opposition. The swift and impassioned response prompted Rep. Tarwater to cancel the bill's hearing, and he said he would not bring it up again without a complete re-write. We will watch closely in 2020 to ensure he keeps his promise.

Leadership refuses to take any action to protect LGBTQ rights

Although there were broad efforts pushing for hearings on a constitutional amendment requiring that every Kansan be treated equally regardless of sexual orientation or gender expression, and despite widespread gay, transgender, and non-binary discrimination—leadership ignored the issue.

Additionally, laws that would have prevented gender discrimination in marriage, and laws that resolved unconstitutional sentencing differences for gay and lesbian Kansans, also died in committee.

A JUDICIAL VICTORY FOR REPRODUCTIVE RIGHTS

On April 29, the Kansas Supreme Court ruled that the state's constitution protects access to abortion under the right to personal autonomy. "This right allows a woman to make her own decisions regarding her body, health, family formation, and family life—decisions that can include whether to continue a pregnancy," the Court wrote in its *Hodes & Nauser v. Schmidt* decision.

Efforts to force doctors to lie about abortion "reversal" fail

This year's anti-choice bill mandated that doctors misinform patients about an unproven procedure—or find themselves guilty of a felony. Abortion "reversal" is a medically unverified procedure advocated by a physician who claims he reversed a medication abortion in a few of his patients. His boast received no institutional review and had zero oversight. This procedure is untested, not FDA approved, and, according to the American College of Obstetricians and Gynecologists (ACOG), unsafe.

The bill also required doctors to have office signage and pamphlets supporting this bizarre mandate. We argued that the claim that an abortion could be reversed was unscientific, and that forcing doctors to lie constituted compelled speech, a First Amendment violation.

Still, the bill passed both legislative chambers by significant margins. Gov. Kelly vetoed the bill, and the attempts to override her veto came down to one vote in both chambers. The Senate overrode Kelly's veto by one vote, and the House sustained it by one, thanks to a lone Republican—Representative Kessinger. This grotesque piece of legislation did not become law thanks to Rep. Kessinger and others who held fast in protecting women's healthcare access and reproductive freedoms.

Even with wide bipartisan support, criminal justice reform stalled this session

Despite bipartisan support for reform, despite overcrowded prisons, despite the Department of Corrections begging for the House to pass sentencing reform, despite Americans for Prosperity *and* the ACLU lobbying for Ban the Box and Civil Asset Forfeiture reform—**none of these bills even made it out of committee this session.**

House and Senate Leadership seemed committed to doing as little as possible this year. Instructions were handed down to committee chairs to not pass bills. Chair Jennings, Chair Wilborn, and Chair Patton complied, denying hearings to defelonize drug possession, to require conviction before seizing assets, and to implement standardized diversion policies.

Chair Jennings instead created the Sentencing Reform Commission, which became HB 2018, later bundled into HB 2290. We are choosing to be optimistic about this Commission, although it delays much-needed reform for at least another year.

One victory, however, improved the lives of people struggling financially with suspended driver's licenses. HB 2211 fixed an inequitable law requiring high reinstatement driver's license fees. That fee can now be waived for drivers unable to pay. Thus, HB 2211 helps reduce wealth-biased injustice.

Many civil rights battles loom on the 2020 Session horizon

A surprisingly low number of bills passed during this session. The legislature adjourned two weeks early and failed to address our state's ongoing mass incarceration crisis while obstructionists blocked several good bills, even ones with strong bipartisan support.

Nonetheless, we advanced voting rights by making polling locations more accessible and provisional ballots more reliable. We defeated a terrible medication abortion "reversal" bill, as well as a bill that would have compromised immigrants' rights. The wins for voting rights and protections of immigrants were the result of pushing back hard against a Trump-inspired leadership agenda. **Those small, uphill battles were still victories that helped improve the lives of real people.**

As we look toward next year, the legislature will likely hear and try to pass a constitutional amendment that would define a fertilized egg as a person, giving a zygote claim to all civil and human rights.

The Kansas Legislature has once again demonstrated its contempt for civil rights and civil liberties, but **the ACLU of Kansas will be back again next year to fight even harder for proactive reforms and to oppose any legislation that would strip Kansans of their constitutional rights.** Together with our supporters and volunteers, we can protect and expand the freedom, fairness, and equality we all cherish.



Your support is crucial to winning the fight for freedom in Kansas. Learn more at:
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