

April 17, 2023

Governor Laura Kelly
300 SW 10th Ave., Ste. 241S
Topeka, KS 66612-1590

RE: Veto Requests

Dear Governor Kelly,

The 2023 legislative session has seen a full-frontal, coordinated attack on our civil liberties. Because of this, the ACLU of Kansas is requesting multiple vetoes to counteract these attacks. We are grateful for your vetoes on HB 2238 and HB 2313 and applaud you for taking a stand for civil rights. We hope you will continue to fight for Kansans by vetoing the legislation we have outlined below.

SB 209 – Eliminating the 3-day Grace Period for Mail In Ballots

This bill is one of many election-related bills introduced this session that limits the voting rights of Kansans or tampers with a well-functioning electoral system because of unsubstantiated concerns about the integrity of our elections. The Kansas Court of Appeals recently found in *Loud Light v. Schwab* that voting in Kansas is a fundamental right and that any restriction on voting must pass the highest level of scrutiny. Proponents of this bill provided no justification for this significant change to voting law other than their interest in appeasing election conspiracy theorists. Every registered Kansas voter who casts their ballot by Election Day should have their vote counted—whether they vote in-person or by mail.

HB 2313 and HB 2264 – Anti-abortion Bills Perpetuating State-Sanctioned Misinformation

Despite a resounding victory for Kansans' bodily autonomy on August 2, 2022, the 2023 legislature attempted to circumvent the will of the people by chipping away at their access to abortion. The ACLU of Kansas is grateful for your veto of HB 2313, a bill that would have traumatizing and inhumane impacts on mothers, their families, and terminally ill infants. Additionally, we hope you will veto HB 2264. HB 2264 includes provisions that would not only require abortion providers to promote state-sponsored misinformation about mifepristone but would create criminal penalties up to the level of a person felony for failure to do so. Forcing medical providers to share inaccurate, potentially dangerous information with patients is not only an enormous overreach by the legislature into the practice of medicine, but the creation of a felony



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penalty for refusing to provide such medically inaccurate information is absurd and dangerous. We hope you will stand with Kansans and protect their right to receive medically accurate, unbiased information from their healthcare providers as they exercise their right to bodily autonomy.



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SB 26, SB 180, SB 2138, and SB 228 – Bills Attacking the Trans Community and Infringing on their Civil Rights

This legislative session has produced multiple bills attacking every aspect of trans Kansans' lives—from medical care to the ability to play sports or even use the restroom in a safe way. Every one of these bills is part of a larger attempt by the Kansas legislature to degrade the rights of trans and gender diverse Kansans.

- **SB 26** creates an effective ban on gender affirming care in Kansas by threatening healthcare providers with civil action and the loss of their professional licensure should they provide this necessary, lifesaving care to people under the age of 18. This bill places politicians' feelings and opinions above the expert medical advice of hundreds of thousands of doctors represented by all major medical associations in the United States. Not only does this bill endanger trans children by keeping them from receiving a proven medical treatment for gender dysphoria, but it discriminates on the basis of sex and transgender status, thereby infringing on the fundamental rights of Kansas children and their parents. This bill violates the constitutional rights of Kansas children, young adults, and their parents by stripping them of their right to bodily autonomy under the Kansas constitution and their equal protection and due process rights under the U.S. Constitution.
- **SB 180** attempts to bar transgender and gender diverse individuals from single-sex spaces by codifying an inaccurate, unscientific, and woefully outdated definition of sex into state statute. The creation of this definition in state statute will have far-reaching and yet unexplored implications across multiple areas of law and administrative functioning. The lack of insights into the legal impacts of this bill aside, courts continue to find that trans people have the right to access single-sex spaces just as cisgender people do. Additionally, this bill allows the legislature to encroach on the power of the courts in its attempt to discriminate by appearing to give the legislature jurisdiction to analyze the legality of legislation. The courts have sole authority to determine if legislation passes Constitutional muster, and it is critical that the system of checks and balances remain protected.



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- **HB 2138** is another example of government overreach and excessive regulation in the pursuit of discrimination against transgender and gender diverse individuals. This bill would force school districts to adopt an outdated and scientifically inaccurate statewide definition of sex to create local policy, making them vulnerable to costly litigation and putting their federal funding at risk. As stated above, the courts have found that transgender individuals have as much of a right to single-sex spaces as cisgender individuals do. HB 2138 would infringe on that right in violation of the Kansas Constitution and the Civil Rights Act of 1964.
- **SB 228** was amended by the Senate Judiciary Committee to include the definition of sex from SB 180—a definition that is woefully inaccurate and dangerous to codify into state statute. While the ACLU of Kansas remains neutral on the other components of SB 228, the provision added by Senate Judiciary would require counties to categorize and house individuals based on the SB 180 definition of sex. This requirement means that all Kansas jails would be in violation of federal law, opening them up to litigation and the loss of federal funding. The Prison Rape Elimination Act (PREA) standards require that the safety and placement of individuals be assessed on a case-by-case basis specifically to prevent the kind of physical and sexual abuse SB 228 would put trans and gender diverse individuals in danger of.

These bills, based on transphobia and medical misinformation, have no place in our state. We are asking you to stand with trans and gender diverse Kansans and allies by vetoing SB 26, SB 180, HB 2138, SB 228.

Thank you again, wholeheartedly, for your continued defense of civil liberties and your vetoes of HB 2313 and HB 2238. The ACLU of Kansas is already hard at work with our partners and allies across the state to sustain vetoes on these bills. Please stand with us, once more, by vetoing the legislation outlined in our letter.

Sincerely,

A handwritten signature in black ink that reads "Micah W. Kubic". The signature is fluid and cursive.

Micah Kubic