



Kansas

2023 Legislative Update

We made them hear us.

The 2023 Kansas legislative session, which lasted from January through May, was a sustained, malicious, and coordinated attack on civil liberties. The extremist state legislative leadership promoted an onslaught of bills that would erode civil rights and undermine Kansas's claim to be the Free State.

Legislative extremists floated proposals to ban medical care for transgender Kansans, abortion, and ballot drop boxes. They sought to double down on making our criminal legal system more punitive, spreading lies about election fraud, and creating an environment of fear for immigrants. They looked for every available opportunity to bully transgender Kansans, to harass those seeking reproductive healthcare, to intimidate anyone who does not share their worldview, and to stop voters from making their voices heard.

In the face of this unprecedented onslaught, Kansans spoke out emphatically against these attacks on their communities, neighbors, and themselves. The ACLU of Kansas, our partners, and regular Kansans showed up every day to defend democracy and our shared values from extremist politicians.

We made them hear us.

The voice and power of the civil liberties movement made all the difference in the 2023 legislative session. In the face of enormous odds, the ACLU of Kansas and our allies succeeded in turning back many of the most devastating attacks on our rights, including defeating bills that would weaken voting rights and harm transgender Kansans.

During a session remarkable for the sheer

number of bills attacking the basic rights of Kansans, some of those proposals did become law. The proposals that did become law—especially unconscionable attacks on the very existence of transgender Kansans—did so without popular support or a grounding in the Constitution. Our movement is committed to striking them from the lawbooks at the very first opportunity.

The 2023 legislative session is a reminder that, even in the face of overwhelming odds, we can make them hear us. We will not prevail on every issue, but our voices will be heard and our movement's power will be felt.



IGNORING THE WILL OF THE PEOPLE, LIMITING ACCESS TO ABORTION CARE

In August 2022, Kansas voters overwhelmingly rejected a state constitutional amendment that would have led to a total ban on abortion in Kansas. That decision by Kansas voters was all the more meaningful after the United States Supreme Court struck down *Roe v. Wade*'s right to abortion care. Kansas voters agreed with the Kansas Supreme Court that bodily autonomy—and the right to make one's own medical decisions, free from government mandates—is protected under the state constitution.

The legislators who sought to overturn the right to abortion care at the ballot box were not pleased with the voters' decision. Rather than accepting the will of the people, anti-abortion extremists introduced multiple bills chipping away at reproductive freedom in attempts to limit access to much-needed healthcare. Many of these bills did not receive a hearing while reproductive freedom advocates were successful in defeating one particularly harmful measure, which would have banned abortion providers from buying liability insurance through the state fund that every other medical practitioner is eligible to use.

Although Gov. Kelly vetoed every attack on reproductive freedom that reached her desk, two bills still became law:

- HB 2313, one of numerous so-called “born alive” bills across the country. This kind of government intrusion into the hospital room violates the civil rights of patients and medical providers and restricts the reproductive freedom of Kansans.
- HB 2264, a bill that not only requires abortion providers to promote state-sponsored misinformation about mifepristone—the abortion pill—but would create criminal penalties up to the level of a person felony for failure to do so.



VICTORY ON VOTING RIGHTS

Following the 2022 elections and the ascension of Kris Kobach to the attorney general's office, it was guaranteed that voting rights would be one of the marquee issues of the 2023 legislative session. The ACLU of Kansas and all proponents of democracy won unvarnished victories on this issue—with none of the myriad of voter suppression bills that were introduced, all of them on a false premise that Kansas elections are insecure, becoming law.

Most importantly, we defeated SB 209, a bill that would have eliminated the 3-day grace period for mail-in ballots. The bill was defeated after the legislature failed to override Governor Laura Kelly's veto if it. The current 3-day grace period is crucial to allow voters, the United States Postal Service, and election clerks much needed flexibility to ensure all votes are appropriately counted.

Other voter suppression proposals that were defeated include:

- Multiple bills eliminating or severely restricting the use of ballot drop boxes
- A bill instituting runoff elections only in statewide races, which would have significantly reduced voter engagement and limited the ability of minority racial and ethnic groups to elect candidates of their choice.
- A provision that would have more easily removed voters with disabilities from the permanent advance voter list.

PROGRESS TOWARD A MORE JUST CRIMINAL LEGAL SYSTEM

The 2023 legislative session saw widespread bipartisan support for two ACLU KS policy priorities: removing juvenile fines and fees in the criminal legal system and legalizing medical marijuana. Acting on these two issues would have immense positive impacts for people across the state, and the odds look good for passing legislation in the future. Bipartisanship is increasingly rare in the United States and Kansas, but both of these issues have strong support on both sides of the aisle. Kansans can capitalize on this broad support by mobilizing their communities, educating others, and calling on their legislators to take action in 2024.

JUVENILE FINES AND FEES

The criminal legal system in our state imposes thousands of dollars of debt on youth—debt that has no positive impact on recidivism rates or public safety but has enormous negative impact on Kansas youth and their families. This debt follows children well into adulthood, impacting their future success and stability and, in some cases, pulling them further into the criminal legal system for longer. HB 2073 would have eliminated fines and fees in the juvenile justice system and discharged any outstanding debt.

The ACLU of Kansas worked with partners and lawmakers across the political spectrum to create this bill, which had overwhelming bipartisan support and even passed unanimously out of the House Corrections and Juvenile Justice Committee. In a political environment that is increasingly polarizing, a truly bipartisan bill is hard to come by, and this kind of unanimous committee vote is almost unheard of. Unfortunately, House leadership opted not to allow the bill to the House floor for a vote, and it will have to be reintroduced next session—but the momentum and support built this session cannot be denied, and advocates are hopeful that a bill will be successful in the 2024 legislative session.

MEDICAL MARIJUANA

Multiple bills about cannabis legalization were introduced, but only one was granted a hearing: SB 135. While not a perfect bill, it was one step in the right direction for a state that remains ages behind the rest of the country.

The ACLU and partners are committed to promoting full participation in the regulated medical marijuana industry by communities that have been disproportionately harmed by marijuana prohibition and enforcement. People of color must have equitable—not just equal—access to business opportunities, and proactive provisions must be in place to explicitly preempt discrimination against people of color with medical marijuana cards. Despite broad support from Kansans, neither SB 135, nor any other bill promoting cannabis legalization, was brought to the floor for a vote.

SUCCESSFULLY PROTECTING MEDICAL CARE FOR KANSAS YOUTH

One major triumph for freedom and human dignity came through the defeat of SB 26, a bill that would have effectively banned gender affirming care for people under the age of 18. This bill would have stripped parents of their right to make medical decisions for their own children and put an untold number of transgender and gender-diverse children at greater risk of suicide and self harm. Unspeakably cruel—and flagrantly unconstitutional in its discrimination—SB 26 was vetoed by Gov. Kelly. After hearing from thousands of everyday Kansans, including transgender youth who would be harmed, the legislature failed in getting the votes to override the governor's veto. Even in its failure, however, the bill spread malevolent misinformation about transgender and gender-diverse Kansans.

A DARK STAIN ON THE STATE OF KANSAS

Despite an outcry from people across the state, packed committee rooms full of opponents, and vetoes by Gov. Kelly, three other bills attacking the rights and safety of transgender people became law in Kansas. Two of these bills became law by the narrowest of margins—had one lone legislator voted differently, the bills would have failed. These bills were advanced by the most extreme voices in the Kansas Legislature, and they lack a basis in science, our shared values, or the protections all Americans are afforded by the Constitution. The four disgraceful attacks on transgender Kansans that became law this session were:

- SB 180, a bill codifying a scientifically outdated and misleading definition of sex into state law, thereby excluding transgender and gender diverse individuals from single-sex spaces. The creation of this definition in state statute will have far-reaching and as yet unexplored implications across multiple areas of law and public administration.
- SB 228, a bill that requires counties to categorize and house individuals based on the definition of sex included in SB 180 (see above). This requirement means that all Kansas jails will be in violation of federal law, opening them up to litigation and the loss of federal funding, while putting transgender and gender diverse people who are incarcerated in county jails in danger.
- HB 2238, a bill that requires that female student athletic teams only include members who are assigned female at birth,



intentionally excluding transgender girls as young as kindergarten age from playing sports with their peers

- HB 2427, requiring separate school accommodations and forcing school districts to adopt outdated, inaccurate, and exclusive definitions of sex.

MARCHING ON

The 2023 Kansas legislative session was a difficult one, with more bills attacking fundamental civil liberties and civil rights than ever before.

The politicians who run the Kansas Legislature pursued an agenda that is out of step with the priorities and values of Kansans. But while extremist lawmakers muscled through some devastating attacks on freedom—especially in seeking the erasure of transgender Kansans—they heard our movement loud and clear.



The Kansas Constitution says “all political power is inherent in the people”—not the legislature, or any politician. The 2023 legislative session is a useful reminder of that truth, and our need to mobilize Kansans around it. Kansans showed up in 2023 for democracy, but we must redouble our efforts if we are to succeed in turning back the attacks that are sure to come in the 2024 session.

At the ACLU of Kansas, we will continue to be champions of all people in Kansas and defend basic civil rights and liberties—in communities, at the statehouse, and in the halls of justice. We will march on, for freedom, justice, equality, and human dignity.

As we march on, we will make them hear us—and we will prevail.

HELP OUR MOVEMENT MARCH ON!

Sign up for our updates at: www.aclukansas.org/emailsingup