

IN THE THIRD JUDICIAL DISTRICT
SHAWNEE COUNTY DISTRICT COURT
CIVIL DEPARTMENT

STATE OF KANSAS, *ex rel.* KRIS KOBACH,
Attorney General,

Petitioner,

v.

DAVID HARPER, Director of Vehicles,
Department of Revenue, in his official capacity,
and
MARK BURGART, Secretary of Revenue, in
his official capacity,

Respondents.

Case No. 23-CV-000422
Div. No. 3

ANSWER IN INTERVENTION

For their Answer in Intervention to the Petition for Mandamus and Injunctive Relief ("Petition"), Respondents Adam Kellogg, Kathryn Redman, Juliana Ophelia Gonzalez-Wahl, Doe Intervenor-Respondent 1, and Doe Intervenor-Respondent 2 (collectively, "Intervenor Respondents") state and aver as follows:

1. With respect to paragraph 1 of the Petition, the Intervenor Respondents admit only that they do not contest the jurisdiction of this Court over this action.
2. With respect to paragraph 2 of the Petition, the Intervenor Respondents admit only that they do not contest that this Court is an appropriate venue for this action.
3. Intervenor Respondents admit the allegations of paragraph 3 of the Petition.
4. Intervenor Respondents admit the allegations of paragraph 4 of the Petition.
5. Intervenor Respondents admit the allegations of paragraph 5 of the Petition.
6. Intervenor Respondents admit the allegations of paragraph 6 of the Petition.

7. With respect to the allegations of paragraph 7 of the Petition, Intervenor Respondents admit only the allegations of the first two sentences. Intervenor Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in that paragraph and therefore deny them.

8. Intervenor Respondents admit the allegations of paragraph 8 of the Petition.

9. Intervenor Respondents admit the allegations of paragraph 9 of the Petition.

10. Intervenor Respondents admit the allegations of paragraph 10 of the Petition.

11. With respect to the allegations of paragraph 11 of the Petition, Intervenor Respondents admit only that the Legislature passed S.B. 180, which is sometimes deceptively referred to as the "Women's Bill of Rights."

12. Intervenor Respondents admit the allegations of paragraph 12 of the Petition.

13. Intervenor Respondents admit the allegations of paragraph 13 of the Petition.

14. With respect to the allegations of paragraph 14 of the Petition, Intervenor Respondents admit only that S.B. 180 speaks for itself with respect to the matters addressed therein.

15. With respect to the allegations of paragraph 15 of the Petition, Intervenor Respondents admit only that S.B. 180 speaks for itself with respect to the matters addressed therein.

16. With respect to the allegations of paragraph 16 of the Petition, Intervenor Respondents admit only that K.S.A. 8-433(a) speaks for itself with respect to the matters addressed therein.

17. Intervenor Respondents deny the allegations of paragraph 17 of the Petition.

18. Intervenor Respondents deny the allegations of paragraph 18 of the Petition.

19. Intervenor Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19 of the Petition and therefore deny those allegations.

20. Intervenor Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20 of the Petition and therefore deny those allegations.

21. With respect to the allegations of paragraph 21 of the Petition, Intervenor Respondents admit only that at times both prior to and subsequent to the passage of S.B. 180, the Division had a policy by which a person could change the previously identified gender on the person's driver's license. Intervenor Respondents deny all other allegations of that paragraph.

22. With respect to the allegations of paragraph 22 of the Petition, Intervenor Respondents admit only that at times both prior to and subsequent to the passage of S.B. 180, the Division had a policy by which a person could obtain a driver's license with a gender designation that did not match the person's sex assigned at birth. Intervenor Respondents deny all other allegations of that paragraph.

23. With respect to the allegations of paragraph 23 of the Petition, Intervenor Respondents admit only that the Attorney General issued AGO 2023-2 and that it speaks for itself with respect to the matters addressed therein. Intervenor Respondents deny that AGO 2023-2 is correct or otherwise appropriate, and they deny all other allegations of that paragraph.

24. With respect to the allegations of paragraph 24 of the Petition, Intervenor Respondents admit only that the Attorney General issued AGO 2023-2 and that it speaks for itself with respect to the matters addressed therein. Intervenor Respondents deny that AGO 2023-2 is correct or otherwise appropriate, and they deny all other allegations of that paragraph.

25. Intervenor Respondents deny the allegations of paragraph 25 of the Petition.

26. With respect to the allegations of paragraph 26 of the Petition, Intervenor Respondents admit only that the cited article attributed the quote in issue to the Governor. Intervenor Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of that paragraph and therefore deny them.

27. With respect to the allegations of paragraph 27 of the Petition, Intervenor Respondents admit only that the referenced webpage contained the attributed content. Intervenor Respondents deny all other allegations of that paragraph.

28. Intervenor Respondents deny the allegations of paragraph 28 of the Petition.

29. Intervenor Respondents deny the allegations of paragraph 29 of the Petition.

30. Intervenor Respondents deny Petitioner is entitled to the relief sought in, and they oppose, the Prayer for Relief contained in paragraph 30 of the Petition.

31. To the extent the relief sought in paragraph 30 of the Petition is required by S.B. 180, which Intervenor Respondents deny, granting such relief would violate Section 1 of the Bill of Rights of the Kansas Constitution, insofar as such relief would deprive certain Intervenor Respondents of their rights of Personal Autonomy.

32. The Petitioner is not entitled to the relief sought in paragraph 30 of the Petition as such relief would violate Section 1 of the Bill of Rights of the Kansas Constitution, insofar as such relief would deprive certain Intervenor Respondents of their rights of Privacy.

33. The Petitioner is not entitled to the relief sought in paragraph 30 of the Petition as such relief would violate Section 1 of the Bill of Rights of the Kansas Constitution, insofar as such relief would deprive certain Intervenor Respondents of their rights of Equal Protection of the Laws.

34. Intervenor Respondents reserve the right to assert additional defenses and matters of avoidance that become apparent during investigation and discovery in this action.

Respectfully submitted,

By: /s/ Sharon Brett

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ATTORNEYS FOR INTERVENOR-
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* *Pro Hac Vice* application forthcoming

Certificate of Service

On August 21, 2023, I caused a copy of the foregoing to be electronically filed using the Court's electronic filing system and also caused a copy to be served on counsel via email.

/s/ Sharon Brett
Sharon Brett