



TESTIMONY OF
DR. MICAH W. KUBIC
EXECUTIVE DIRECTOR, AMERICAN CIVIL LIBERTIES UNION OF KANSAS
IN SUPPORT OF HB 2290
KANSAS HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE
FEBRUARY 20, 2017

- WRITTEN TESTIMONY ONLY -

The American Civil Liberties Union (ACLU) of Kansas is a non-partisan, non-political membership organization dedicated to preserving and strengthening the constitutional liberties afforded to every resident of Kansas. We work to preserve and strengthen our constitutional rights and freedoms through policy advocacy, litigation, and education. We proudly serve over 10,000 supporters in Kansas and represent more than 1 million supporters nationwide.

The ACLU of Kansas supports HB 2290, which strikes obsolete provisions of the Kansas statute that criminalize consensual sexual intercourse between two people of the same sex. We support HB 2290 because:

- **The United States Supreme Court long ago ruled that the prohibitions included in Kansas statutes were unconstitutional.** In 2003, the United States Supreme Court handed down its verdict in the landmark case *Lawrence v. Texas*. Justice Anthony Kennedy wrote for a six-person majority of the Court, ruling that intimate consensual sexual conduct constitutes a liberty interest protected by the 14th Amendment to the Constitution. Although the case originated in Texas, the Supreme Court's ruling invalidated criminal sodomy laws across the country. The *Lawrence v. Texas* ruling established that sexual privacy is protected by the Constitution and that consensual, same-sex sexual activity is legal throughout the United States.

The current language of the Kansas statute criminalizes consensual sodomy between persons of the same sex who are over the age of 16, while the definition of "unlawful voluntary sexual relations" discriminates against same-sex conduct. In light of the Supreme Court's decision of 14 years ago, this criminalization of intimate conduct is unconstitutional on its face. The existing language of the statute is invalid and unenforceable, in addition to being an unconscionable affront to the values of liberty and equality.

- **Officially repealing the discriminatory, unconstitutional language from the statute is an important way to support liberty and equality.** Although the prohibition on consensual same-sex activity is unenforceable, its continued presence in the Kansas statute signals to LGBT Kansans that they lack full equality and dignity under the law. The law should not be used as a tool of discrimination or to denigrate the humanity of any group of people. For Kansas to embrace the values of liberty and equality, the discriminatory and dignity-denying provisions of the statute should not just be rendered obsolete by a Supreme Court ruling but instead stricken entirely.

We urge the committee to support HB 2290.