

LGBTQ+

Know Your Rights

FAQ 2023



While there is still much work to be done to ensure safety and security for LGBTQ+ people in Kansas, LGBTQ+ Kansans do have legal protections at the federal, state, and local levels that ensure they receive respect, dignity, and equal treatment.

That said, in light of some of the local and state legislative attacks on LGBTQ+ rights in Kansas, some of those protections at the state and local level may be unsettled or changing. So, this Know Your Rights resource focuses on LGBTQ+ Kansan's rights under the U.S. Constitution and federal law. It also includes some information about state and local protections in Kansas, as they exist in this current moment.

1. Healthcare

Can a medical professional discriminate against me or deny me healthcare because of my sexual orientation or gender identity?

Your Rights: Section 1557 of the Affordable Care Act makes it illegal for medical providers to discriminate against or refuse to treat people based on their gender identity or sexual orientation. Most healthcare providers, insurers, and hospitals that receive federal funding must follow this law. Section 1557's protections also apply to state-run health programs like Medicare and Medicaid.

- Right now, access to gender-affirming care varies across states. While Kansas does not currently have laws banning access to gender-affirming care, Kansas also doesn't have laws explicitly protecting access to gender-affirming care under private insurance or Medicare/Medicaid. Access also depends on whether you are an adult or a minor. The law in this area is often changing.
- Many healthcare providers in Kansas are affiliated with religious groups. Religiously affiliated healthcare providers do not have to comply with Section 1557.
- You have the right to be treated equally by medical providers regardless of your HIV or AIDS status. Section 1557 of the Affordable Care Act and Section 504 of the Rehabilitation Act of 1973 protect this right.
- LGBTQ+ and two-spirit people enrolled in federally-recognized tribes may seek gender-affirming care through the [Indian Health Service \(IHS\)](#).

If You Believe Your Rights Have Been Violated: HHS investigates complaints of discrimination. You can file a complaint by mail or [on their website](#).

Additional Resources: If you've been discriminated against based on sexual orientation or gender identity while seeking housing, the ACLU may be able to help. Contact us by filling out an intake form.

2. Employment

Can my employer discriminate against me because of my sexual orientation or gender identity?

Your Rights: Title VII of the 1964 Civil Rights Act bans employers with 15 or more employees from discriminating based on sex. These protections apply to all kinds of employment decisions, like hiring, promotions, and workplace treatment. In 2020, the Supreme Court decided in *Bostock v. Clayton County, Georgia* that Title VII also protects against employment discrimination based on sexual orientation and gender identity. In 2021, President Biden directed all federal agencies to update their policies to follow this ruling.

Some courts have also interpreted the Fourteenth Amendment of the U.S. Constitution to protect transgender employees from discrimination.

If You Believe Your Rights Have Been Violated: The Equal Employment Opportunity Commission (EEOC) investigates complaints of workplace discrimination. Usually, there are strict time limits to file a complaint. [Contact the EEOC if you have questions about workplace discrimination.](#)

Additional Resources: If you've been discriminated against based on sexual orientation or gender identity in the workplace, the ACLU may be able to help. Contact us by filling out an intake form. Some courts have also interpreted the Fourteenth Amendment of the U.S. Constitution to protect transgender employees from discrimination.

3. Education

Am I protected from discrimination as an LGBTQ+ student at my school?

Your Rights: You have the right to be treated equally at school based on sex. Title IX of the Education Amendments of 1972 bans sex-based discrimination in public and private K-12 schools, colleges, and universities that receive federal funding. Certain religious schools do not have to enforce Title IX when doing so conflicts with a religious belief.

- Courts disagree about whether Title IX protects against LGBTQ+ discrimination. Right now, the Department of Education’s guidance interprets Title IX to ban discrimination based on sexual orientation and gender identity. However, the Department of Education issued a proposed rulemaking that clarifies Title IX includes protections against LGBTQ+ discrimination, and that final rule is anticipated for release in October 2023.
- You have a right to feel safe at school. Title IX and the U.S. Constitution require schools to protect you from severe or pervasive bullying.
- You have a right to report sexual violence and harassment, regardless of your gender identity or sexual orientation. Under the Clery Act, schools must inform students of their right to report. Schools have a legal duty to investigate reports of sexual violence and harassment. This is different than reporting violence to the police.
- The Department of Education has [proposed new policies](#) that would allow transgender student athletes to participate in sports teams that align with their gender identity. These policies are not final. Because the Department is an executive agency, its approach to Title IX may change under a different president. And in Kansas, state law currently bans trans girls and women from playing on women’s sports teams in the state.

Your Rights: The First Amendment protects your right to express yourself. In public schools, the First Amendment can apply to dress codes and protect your right to dress consistent with your gender identity.

Your Rights: You have the right to form an LGBTQ+ student group. The Equal Access Act requires many public high schools to give students an equal opportunity to form extracurricular groups, like a Gay-Straight Alliance. These schools can’t treat LGBTQ+ student groups differently than they treat other student groups.

Your Rights: You have the right to change your name and gender marker on your school records. The [Family Educational Rights and Privacy Act \(FERPA\)](#) protects students’ privacy, which means that schools can’t share information about your medical history or gender identity without your or a parent’s permission.

If You Believe Your Rights Have Been Violated: You can [file a complaint](#) with the Department of Education’s Office of Civil Rights (OCR). Complaints that aren’t filed within 180 days of the violation may not be legally actionable. If your school receives federal funding and is subject to Title IX, it will have a Title IX coordinator who can [help you complain](#) to the school.

4. Public Accommodations

Am I protected from discrimination when accessing public accommodations, like shops and restaurants?

Your Rights: Federal law does not prohibit discrimination based on gender identity or sexual orientation in public accommodations. State laws and local ordinances may ban these types of discrimination. In Kansas, the Kansas Act Against Discrimination (“KAAD”) protects against discrimination based on sex in public accommodations. And the Kansas Human Rights Commission (“KHRC”) adopted a policy that interprets KAAD’s sex-based protections in line with Bostock—meaning the KHRC currently interprets KAAD to protect LGBTQ+ Kansans from discrimination while accessing public accommodations. Additionally, 20 cities and counties in Kansas have local-level nondiscrimination ordinances that protect LGBTQ+ Kansans from discrimination. You can visit lgbtmap.org to see a full list of these cities and counties and learn more about your local-level protections in Kansas.

If You Believe Your Rights Have Been Violated: You can file a KAAD complaint of public accommodations discrimination with the KHRC. Complaints of public accommodations discrimination must be filed within 180 days of the violation. Visit the KHRC website for information about your rights under KAAD and assistance filing a complaint.

Additional Resources: If you’ve been discriminated against based on sexual orientation or gender identity when accessing public accommodations in Kansas, the ACLU may be able to help. [Contact us by filling out an intake form.](#)

5. Housing

Can a landlord refuse to rent to me because of my sexual orientation or gender identity?

Your Rights: You have a right to access housing regardless of your sexual orientation or gender identity. Under the Fair Housing Act (FHA), landlords and housing providers can’t discriminate against renters based on perceived sexual orientation or gender identity. And the Equal Access Rule requires that LGBTQ+ people have equal access to housing programs that receive funding from the Department of Housing and Urban Development (HUD).

If You Believe Your Rights Have Been Violated: HUD investigates complaints of potential housing discrimination. Most discrimination claims need to be reported within a year. Contact HUD if you have experienced housing-related discrimination because of your gender identity or sexual orientation.

Additional Resources: If you’ve been discriminated against based on sexual orientation or gender identity while seeking housing, the ACLU may be able to help. Contact us by filling out an intake form.

6. ID Documents

Can I update my name and gender marker on my federal passport?

Your Rights: You have the right to update your name and gender marker on your passport.

- As of June 2021, the State Department allows anyone to change the gender marker on their passport to be consistent with their gender identity. You can select male (M), female (F), or unspecified/nonbinary (X).
- You do not need to submit any medical or legal documentation to change your gender marker.
- To change your legal name, you must provide a certified copy of the legal name change document (such as a court order).

Additional Resources: Follow SSA procedures to update your [name](#) and [gender marker](#). Requirements may differ based on your citizenship and whether you are over 18 years old.

Can I update my name and gender marker on my Kansas birth certificate or driver's license?

Your Rights: All Kansans have the right to update their given name and gender marker on their state-issued birth certificate and driver's license. To change your name, you will need to get a name change order from a Kansas court. To change your gender marker, you will need to complete an application with the Office of Vital Statistics. Processes differ for minors and adults. For example, minors need an adult or guardian to petition a court on their behalf, or need parental approval on their gender marker change application.

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- **Note:** *It is settled law that you have a right to change your name in Kansas. However, prior to 2019, Kansas did not allow gender marker changes on state birth certificates. But in a federal court case, Foster v. Andersen, the court found this ban violated Kansans' constitutional rights and issued an order requiring Kansas to provide gender marker changes on state birth certificates. That court order is still in place today—but in June 2023, Attorney General Kris Kobach filed a motion to seek relief from the court order. While we don't yet know the outcome of those filings, we do know that the Foster court order remains in place until the court rules on those filings—meaning Kansans should continue to have the ability to change their gender marker on their state birth certificates. We will update this document when there is a ruling on that motion.*
- *In the meantime, if you apply to amend your birth certificate and are rejected or denied the ability to do so, the ACLU may be able to help. Contact us by filling out an intake form.*

What if I have different gender markers on different IDs or records?

Your Rights: You do not have to update your gender markers on all forms of identification at once. Making these changes takes time, and some changes require more documentation than others. For example, you can change your gender marker for your federal passport and Social Security card without any medical documentation but may need such documentation to change your gender marker on your state birth certificate.

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7. Credit/Finance Practices

Am I protected from discrimination in financial services?

Your Rights: You have a right to be treated equally in the financial services industry. The Equal Credit Opportunity Act (ECOA) protects against discrimination in credit transactions based on certain characteristics, like gender and race. After the Supreme Court decided *Bostock v. Clayton County, Georgia*, the federal government expanded ECOA protections. Now, creditors can't deny you a credit card, loan, or certain kinds of insurance based only on your gender identity or sexual orientation.

If You Believe Your Rights Have Been Violated: The Consumer Financial Protection Bureau (CFPB) handles complaints of potential discrimination that have occurred in the past five years. You can file a complaint and find answers to frequently asked questions on their [website](#).

Additional Resources: If you've been discriminated against based on sexual orientation or gender identity while trying to access financial services, the ACLU may be able to help. [Contact us by filling out an intake form.](#)

8. Jails and Prisons

Can a jail or prison house me in a facility that does not correspond with my gender identity?

Your Rights: You have a right not to be placed in a gendered unit based only on the gender assigned to you at birth. Under the Prison Rape Elimination Act, law enforcement officials must decide where to house all gender nonconforming people on a case-by-case basis. Officials are not legally required to house you in a facility that corresponds with your gender identity, but they must seriously consider your gender identity when deciding where to house you.

- Housing assignments for gender nonconforming people must be reassessed at least twice a year.
- All transgender and intersex people have the right to shower separately from other people who are incarcerated.
- Additionally, prison officials have a legal duty to protect you from violence from other incarcerated people. Officials' deliberate indifference to a substantial risk of serious harm violates your Eighth Amendment right to be free from cruel and unusual punishment.
- While PREA and Eighth Amendment protections still apply to people housed in Kansas jails, Kansas also has a state law that requires sheriffs to house people in Kansas jails based on their gender assigned at birth. If you are a trans person inappropriately housed in a Kansas jail, you still have Constitutional and federal rights. See below for more information about what to do if those rights have been violated.

If You Believe Your Rights Have Been Violated: What you can do depends on where the violation took place and which local, state, and federal agencies can evaluate your complaint. We encourage you to contact your the ACLU of Kansas or the national ACLU LGBT Project for help weighing your options.

Additional Resources: If you've been discriminated against based on sexual orientation or gender identity while incarcerated, the ACLU may be able to help. [Contact us by filling out an intake form.](#)

Can a jail or prison deny me access to gender-affirming healthcare?

Your Rights: There is no federal law guaranteeing access to gender-affirming healthcare in jails or prisons. However, prison and jail staff still must evaluate you for gender dysphoria within a reasonable time if you request it. Medical treatment for incarcerated people diagnosed with gender dysphoria should be delivered according to accepted medical standards. And blanket bans on specific types of treatment, such as bans on hormone therapy or gender confirmation surgery, are unconstitutional. In Kansas, trans people incarcerated in Kansas Department of Corrections facilities have been provided with gender affirming care—including affirming clothing, personal care products, undergarments, and makeup, and in some instances gender affirmation surgeries.

If You Believe Your Rights Have Been Violated: We encourage you to contact your local ACLU affiliate or the national ACLU LGBTQ & HIV Project if you have been denied access to gender-affirming healthcare while incarcerated.

Additional Resources: If you've been discriminated against based on sexual orientation or gender identity while seeking healthcare in a jail or prison, the ACLU may be able to help. [Contact us by filling out an intake form.](#) Additionally, check out [ACLU National's Prisoner's Rights guide](#) for more in depth information about your rights while incarcerated.