

The KDOR Respondents (and to a lesser extent Intervenor, whose response is inconsistent on this point) claim that such an order is unnecessary because KDOR already tracks the requested data. To the State's knowledge, that is incorrect and is unpersuasive in any event. While KDOR represents that it maintains records of driver's license changes, it is not clear that those records distinguish between sex changes on driver's licenses made due to the licensee's transgender beliefs and those made to accurately reflect the licensee's biological sex (such as in the event of a clerical error). If the State prevails on the merits, a specific record of driver's license changes that inaccurately reflect biological sex—not undifferentiated records of all sex marker changes—will be necessary to remedy KDOR's failure to comply with SB 180.

Further, the State's motion also requests that KDOR maintain records of newly issued licenses that do not accurately reflect the licensee's biological sex. While KDOR keeps records of *changes* to driver's licenses, the State is unaware whether KDOR currently keeps records indicating whether *new* licenses contain the correct sex designation.

But even if KDOR did already keep the records requested by the State's motion, there would be no harm in an order from this Court requiring KDOR to maintain those records. At minimum, a court order would prevent KDOR from changing its record-keeping practices while this litigation unfolds, which is a particular concern given KDOR's demonstrated propensity to flaunt the statutory requirements of SB 180.

Intervenors also argue that there would be no basis for remedial action to correct driver's licenses if the State prevails. That is incorrect. While correcting licenses might pose certain logistical difficulties (particularly if KDOR does not keep the records requested by the State's motion), K.S.A. 8-250(a) provides that KDOR may "cancel any driver's license upon determining that the person was not entitled to the issuance thereof or failed to give the required or correct information in his or her application or committed any fraud in making such application." If SB 180 requires that driver's licenses accurately reflect the licensee's biological sex, as the State maintains, then transgender licensees are "not entitled to the issuance" of driver's licenses that display something other than their biological sex. Those noncompliant licenses could therefore be cancelled under K.S.A. 8-250, and the licensees would be required to surrender those licenses. *See* K.S.A. 8-250(b) ("Upon cancellation of a driver's license . . . the person must surrender the driver's license to the division."); K.S.A. 8-260(a)(4) (making it a misdemeanor to fail to surrender a cancelled license).

Finally, both Respondents and Intervenors take issue with the State's request that this Court decide the State's motion before issuing an order lifting the temporary injunction. The State filed its motion under the impression that an order from this Court lifting the temporary injunction is necessary to effectuate the mandate. As the Kansas Appellate Practice Handbook explains, the mandate "is the judgment of the appellate court *but is enforced through the district court.*" Kansas Judicial Council, *Kansas Appellate Practice Handbook* at § 7.63 (6th ed. 2018). And

the mandate itself commands this Court to “cause execution to be had of the judgment of the Court of Appeals,” thus contemplating action from this Court to carry out the mandate. In addition, K.S.A. 60-2106(c) states that a mandate is effective “without further order of the judge” when “it is determinative of the action.” But here, the Court of Appeals’ decision is not finally determinative of this action, which remains pending.

Respondents and Intervenors seem to believe that the Court of Appeals’ mandate is self-executing. Given the parties’ good-faith disagreement on that point, the State has no intention of moving to hold the KDOR Respondents in contempt for resuming driver’s license changes before this Court has issued an order lifting the temporary injunction. But the State nevertheless believes an order from this Court lifting the injunction would be appropriate.

Respondents’ and Intervenors’ argument that the State is asking this Court to defy the Court of Appeals is unfounded. If Respondents and Intervenors are correct that an order from this Court lifting the temporary injunction is not necessary, then any delay issuing that order has no effect. And if an order from this Court is required, the State is not asking this Court to refuse to lift the injunction, only to impose conditions on the KDOR Respondents as part of that order to preserve this Court’s remedial authority should the State ultimately prevail.

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CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2025, the above document was filed with the Clerk of the Court via the e-filing system, with a copy to all counsel of record via email:

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