

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

The State of KANSAS, *ex rel.* KRIS W.
KOBACH, Attorney General,

Petitioner,

v.

DAVID HAPRER, et al.,

Defendants,

and

ADAM KELLOGG, et al.,

Intervenors.

Case No. SN-2023-CV-000422
Division No. 3

MOTION FOR VOLUNTARY DISMISSAL

EXHIBIT 1

House Substitute for SENATE BILL No. 244

AN ACT concerning identification of biological sex; requiring the designation of multiple-occupancy private spaces in public buildings for use by only one sex; imposing criminal and civil penalties for violations; providing a cause of action for individuals aggrieved by an invasion of privacy or other harm when accessing a multiple-occupancy private space; amending the women's bill of rights; defining the term "gender" to mean biological sex at birth for purposes of statutory construction; directing the director of the division of vehicles to invalidate and reissue driver's licenses when necessary to correct the gender identification on such licenses; directing the office of vital statistics to invalidate and reissue birth certificates when necessary to correct the sex identification on such certificates; removing the definition of "gender" from the help not harm act; amending K.S.A. 8-234a and K.S.A. 2025 Supp. 8-243, 65-28,137 and 77-207 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) As used in this section:

(1) "Female" means the same as defined in K.S.A. 2025 Supp. 77-207, and amendments thereto.

(2) "Governmental entity" means the same as defined in K.S.A. 75-6102, and amendments thereto.

(3) "Male" means the same as defined in K.S.A. 2025 Supp. 77-207, and amendments thereto.

(4) "Multiple-occupancy private space" means a facility designed or designated for simultaneous use by more than one individual and in which an individual may be in a state of undress in the presence of another individual, regardless of whether the facility provides curtains or partial walls for privacy. "Multiple-occupancy private space" includes, but is not limited to, a restroom, locker room, changing room or shower room.

(5) "Public building" means a building owned or leased by a governmental entity. "Public building" does not include a building owned by a governmental entity that is leased to a private entity, whether for profit or not for profit, if the lease agreement for such building between the governmental entity and the private entity was in force and effect on the effective date of this act.

(6) "Sex" means the same as defined in K.S.A. 2025 Supp. 77-207, and amendments thereto.

(7) "Single-occupancy private space" means a facility designed or designated for use by only one individual at a time and in which the individual may be in a state of undress. "Single-occupancy private space" includes, but is not limited to:

(A) A single toilet restroom with a locking door that is designed or designated as unisex; or

(B) a family restroom or changing room.

(b) (1) The governing body, or chief administrative officer if no governing body exists, of each public building shall designate each multiple-occupancy private space in such building for use only by individuals of one sex. The governing body, or chief administrative officer if no governing body exists, shall take every reasonable step to ensure an individual does not enter a multiple-occupancy private space that is designated for use only by individuals of the opposite sex.

(2) This subsection shall not be construed to prohibit a governing body, or chief administrative officer if no governing body exists, from:

(A) Adopting a policy in accordance with the Americans with disabilities act of 1990, 42 U.S.C. § 12101 et seq., for individuals who require assistance when using a multiple-occupancy private space; or

(B) establishing a single-occupancy private space

(D) to accompany and provide assistance to an individual who needs assistance using the facility;

(E) for law enforcement purposes;

(F) to render assistance necessary in preventing a serious threat to proper order or safety; or

(G) to provide coaching or athletic training during athletic events, provided such individual is a member of the coaching or athletic training staff and such individual ensures that no individual of the opposite sex is in a state of undress prior to entering such multiple-occupancy private space; and

(2) a child who is under nine years of age may enter a multiple-occupancy private space designated for use only by individuals of the opposite sex if accompanied by an individual caring for such child.

(d) Any governmental entity that violates this section is liable for a civil penalty of \$25,000 for the first violation and \$125,000 for each subsequent violation. Each day of a continuing violation of this section constitutes a separate violation.

(e) (1) A person may file a complaint with the attorney general against a governmental entity for a violation of this section if:

(A) Such person provides such governmental entity written notice describing the violation; and

(B) such governing body, or chief administrative officer if no governing body exists, of such governmental entity does not cure the violation before the end of the third business day after the date the written notice is received.

(2) A complaint filed under this subsection shall include a copy of the written notice provided to the governmental entity and the complainant's affidavit describing the violation.

(f) (1) Before bringing an action against a governmental entity for a violation of this section, the attorney general shall investigate the complaint filed under subsection (e) to determine whether legal action is warranted.

(2) The governmental entity subject to the complaint shall provide to the attorney general any information the attorney general requests in connection with the investigation of the complaint, including, but not limited to:

(A) Supporting documents related to the complaint; and

(B) a statement on whether the governmental entity has complied or intends to comply with this section.

(3) If the attorney general determines that legal action is warranted, the attorney general shall provide written notice to such governmental entity that:

(A) Describes the violation and location of the multiple-occupancy private space found to be in violation;

(B) the amount of the proposed penalty for the violation; and

(C) the penalty may be avoided by curing the violation on or before the 15th day after the date the attorney general's notice is received.

(4) If a violation is not cured on or before the 15th day after the date the notice is received, the attorney general may bring an action to assess the civil penalty provided in subsection (d).

(g) (1) It shall be a violation of this section for an individual to enter a multiple-occupancy private space designated for use only by individuals of the opposite sex, except as permitted under subsection

such individual. Such notice shall include:

(A) The date and location of the multiple-occupancy private space where the violation occurred;

(B) a statement that repeated violations may result in fines or criminal charges; and

(C) the procedure to administratively appeal the finding that such individual violated this section.

(2) Any individual who commits a second violation after being found to have violated this section pursuant to paragraph (1) shall be liable for a civil penalty of \$1,000. An action to assess such penalty may be brought by the attorney general if the violation occurred in a state building or by the county or district attorney for the county where the violation occurred if the violation occurred in a municipal building.

(3) Any individual who commits a third or subsequent violation shall be guilty of a class B misdemeanor.

(h) (1) Any individual who, while accessing a multiple-occupancy private space designated for use only by such individual's sex, is aggrieved by the invasion of such individual's personal privacy or is otherwise harmed by a violation of this section by an individual of the opposite sex may bring a cause of action against such individual of the opposite sex. In bringing such action, the individual may seek either actual damages or liquidated damages in the amount of \$1,000, as well as declaratory and injunctive relief.

(2) It shall be an affirmative defense to any claim brought pursuant to this subsection that the defendant did not know that the multiple-occupancy private space was designated for use only by individuals of the opposite sex to that of the defendant.

(3) All civil actions brought pursuant to this subsection shall be commenced within two years after the violation occurred. An individual bringing any such action who prevails shall recover reasonable attorney fees and costs.

(i) Any civil penalty collected by the attorney general pursuant to this section shall be deposited to the credit of the crime victims compensation fund established under K.S.A. 74-7317, and amendments thereto. Any civil penalty collected by a county or district attorney pursuant to this section shall be deposited to the credit of the general fund of the county where such action was brought.

New Sec. 2. (a) Any birth certificate issued prior to July 1, 2026, that identifies the sex of the individual named on such certificate in a manner that is contrary to the definition of such term as defined in K.S.A. 2025 Supp. 77-207, and amendments thereto, shall be invalid.

(b) The state registrar shall correct any birth certificate records that identify the sex of the individual named in such record in a manner that is contrary to the definition of such term as defined in K.S.A. 2025 Supp. 77-207, and amendments thereto.

(c) This section shall be a part of and supplemental to the uniform vital statistics act.

Sec. 3. K.S.A. 8-234a is hereby amended to read as follows: 8-234a. (a) As used in the motor vehicle drivers' license act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(1) "Drivers' license examiner" or "examiner" means a drivers' license examiner of the division of vehicles or any person whom the director of vehicles has authorized, pursuant to the authority granted by

(2) "nonresident" means every person who is not a resident of this state. For the purposes of the motor vehicle drivers' license act any person who owns, rents or leases real estate in Kansas as such person's residence and engages in a trade, business or profession within Kansas or registers to vote in Kansas or enrolls such person's children in a school in this state or purchases Kansas registration for a motor vehicle, shall be deemed a resident of the state of Kansas 90 days after the conditions stated in this subsection commence, except that military personnel on active duty and their military dependents who are residents of another state, shall not be considered residents of the state of Kansas for the purpose of this act;

(3) "patrol" means the state highway patrol;

(4) "address of principal residence" means: (A) The place where a person makes his or her permanent principal home; (B) place where a person resides, has an intention to remain and where they intend to return following an absence; or (C) place of habitation to which, whenever the person is absent, the person intends to return. If a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person's address of principal residence;

(5) "state" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of Northern Mariana Islands;

(6) "wireless communication device" means any wireless electronic communication device that provides for voice or data communication between two or more parties, including, but not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant that sends or receives messages, an audio-video player that sends or receives messages or a laptop computer; ~~and~~

(7) "religious organization" means any organization, church, body of communicants, or group, gathered in common membership for mutual support and edification in piety, worship and religious observances, or a society of individuals united for religious purposes at a definite place and which religious organization maintains an established place of worship within this state and has a regular schedule of services or meetings at least on a weekly basis and has been determined to be organized and created as a bona fide religious organization; *and*

(8) *"gender" means the same as defined in K.S.A. 77-207, and amendments thereto.*

(b) As used in this act, the words and phrases defined by the sections in article 14 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall have the meanings respectively ascribed to them therein, unless a different meaning is ascribed to any such word or phrase by subsection (a) ~~of this section.~~

Sec. 4. K.S.A. 2025 Supp. 8-243 is hereby amended to read as follows: 8-243. (a) Upon payment of the required fee, the division shall issue to every applicant qualifying under the provisions of this act the driver's license as applied for by the applicant. Such license shall bear the class or classes of motor vehicles that the licensee is entitled to drive, a distinguishing number assigned to the licensee, the full legal name, date of birth, gender, address of principal residence and a brief description of the licensee, either: (1) A digital color image or photograph; or (2) a laser-engraved photograph of the licensee, a facsimile of the signature of the licensee and the statement provided for

from licenses issued to persons age 18 years or older. The secretary of revenue shall implement a vertical format to make drivers' licenses issued to persons under the age of 21 more readily distinguishable. Except as otherwise provided, no driver's license issued by the division shall be valid until either: (1) A digital color image or photograph; or (2) a laser-engraved photograph of such licensee has been taken and verified before being placed on the driver's license. The secretary of revenue shall prescribe a fee of not more than \$8 and upon the payment of such fee, the division shall cause either: (1) A digital color image or photograph; or (2) a laser-engraved photograph of such applicant to be placed on the driver's license. Upon payment of such fee prescribed by the secretary of revenue, plus payment of the fee required by K.S.A. 8-246, and amendments thereto, for issuance of a new license, the division shall issue to such licensee a new license containing either: (1) A digital color image or photograph; or (2) a laser-engraved photograph of such licensee. A driver's license that does not contain the principal address as required may be issued to persons who are program participants pursuant to K.S.A. 75-455, and amendments thereto, upon payment of the fee required by K.S.A. 8-246, and amendments thereto. All Kansas drivers' licenses and identification cards shall have physical security features designed to prevent tampering, counterfeiting or duplication of the document for fraudulent purposes. The secretary of revenue shall incorporate common machine-readable technology into all Kansas drivers' licenses and identification cards.

(b) A Kansas driver's license issued to any person 16 years of age or older who indicated on the person's application that the person wished to make a gift of all or any part of the body of the licensee in accordance with the revised uniform anatomical gift act, K.S.A. 65-3220 through 65-3244, and amendments thereto, shall have the word "Donor" placed on the front of the licensee's driver's license.

(c) Any person who is deaf or hard of hearing may request that the division issue to such person a driver's license which is readily distinguishable from drivers' licenses issued to other drivers and upon such request the division shall issue such license. Drivers' licenses issued to persons who are deaf or hard of hearing and under the age of 21 years shall be readily distinguishable from drivers' licenses issued to persons who are deaf or hard of hearing and 21 years of age or older. Upon satisfaction of subsection (a), the division shall issue a receipt of application permitting the operation of a vehicle consistent with the requested class, if there are no other restrictions or limitations, pending the division's verification of the information and production of a driver's license.

(d) A driver's license issued to a person required to be registered under K.S.A. 22-4901 et seq., and amendments thereto, shall be assigned a distinguishing number by the division which will readily indicate to law enforcement officers that such person is a registered offender. The division shall develop a numbering system to implement the provisions of this subsection.

(e) (1) Any person who is a veteran may request that the division issue to such person a driver's license that shall include the designation "VETERAN" displayed on the front of the driver's license at a location to be determined by the secretary of revenue. In order to receive a license described in this subsection, the veteran shall provide a copy of the veteran's DD form 214, NGB form 22, or equivalent discharge

discharged or released therefrom under an honorable discharge or a general discharge under honorable conditions.

(3) The director of vehicles may adopt any rules and regulations necessary to carry out the provisions of this subsection.

(f) (1) Any person who submits satisfactory proof to the director of vehicles, on a form provided by the director, that such person needs assistance with cognition, including, but not limited to, persons with autism spectrum disorder, may request that the division issue to such person a driver's license, that shall note such impairment on the driver's license at a location to be determined by the secretary of revenue.

(2) Satisfactory proof that a person needs assistance with cognition shall include a statement from a person licensed to practice the healing arts in any state, an advanced practice registered nurse licensed under K.S.A. 65-1131, and amendments thereto, a licensed physician assistant or a person clinically licensed by the Kansas behavioral sciences regulatory board certifying that such person needs assistance with cognition.

(g) (1) *Any driver's license issued prior to July 1, 2026, that identifies the gender of the individual named on such license in a manner that is contrary to the definition of such term as defined in K.S.A. 2025 Supp. 77-207, and amendments thereto, shall be invalid.*

(2) *The director shall correct any driver's license records that identify the gender of the individual named in such record in a manner that is contrary to the definition of such term as defined in K.S.A. 2025 Supp. 77-207, and amendments thereto. The director shall send written notice to each such individual notifying such individual that such license is invalid and to surrender such license to the division of vehicles. Upon the surrender of any such license, the director shall issue a new driver's license to such individual with the correct gender identification for such individual.*

Sec. 5. K.S.A. 2025 Supp. 65-28,137 is hereby amended to read as follows: 65-28,137. (a) The provisions of K.S.A. 2025 Supp. 65-28,137 through 65-28,142, and amendments thereto, shall be known and may be cited as the help not harm act.

(b) As used in this act:

(1) "Child" means an individual less than 18 years of age.

(2) "Female" means an individual who is a member of the female sex.

~~(3) "Gender" means the psychological, behavioral, social and cultural aspects of being male or female.~~

~~(4) "Gender dysphoria" is the diagnosis of gender dysphoria in the fifth edition of the diagnostic and statistical manual of mental disorders.~~

~~(5)(4) "Healthcare provider" means an individual who is licensed, certified or otherwise authorized by the laws of this state to administer healthcare services in the ordinary course of the practice of such individual's profession.~~

~~(6)(5) "Male" means an individual who is a member of the male sex.~~

~~(7)(6) "Perceived sex" is an individual's internal sense of such individual's sex.~~

~~(8)(7) "Perceived gender" is an individual's internal sense of such individual's gender.~~

~~(9)(8) "Sex" means the biological indication of male and female in the context of reproductive potential or capacity, including sex~~

surgical interventions that are undertaken for the purpose of presenting as a member of the opposite sex, including the changing of an individual's preferred pronouns or manner of dress.

Sec. 6. K.S.A. 2025 Supp. 77-207 is hereby amended to read as follows: 77-207. (a) Notwithstanding any provision of state law to the contrary, with respect to the application of an individual's biological sex pursuant to any state law or rules and regulations, the following shall apply:

(1) An individual's "sex" *or* "gender" means such individual's biological sex, either male or female, at birth;

(2) a "female" is an individual whose biological reproductive system is developed to produce ova, and a "male" is an individual whose biological reproductive system is developed to fertilize the ova of a female;

(3) the terms "woman" and "girl" refer to human females, and the terms "man" and "boy" refer to human males;

(4) the term "mother" means a parent of the female sex, and the term "father" means a parent of the male sex;

(5) with respect to biological sex, the term "equal" does not mean "same" or "identical";

(6) with respect to biological sex, separate accommodations are not inherently unequal; and

(7) an individual born with a medically verifiable diagnosis of "disorder/differences in sex development" shall be provided legal protections and accommodations afforded under the Americans with disabilities act and applicable Kansas statutes.

(b) Laws and rules and regulations that distinguish between the sexes are subject to intermediate constitutional scrutiny. Intermediate constitutional scrutiny forbids unfair discrimination against similarly situated male and female individuals but allows the law to distinguish between the sexes where such distinctions are substantially related to important governmental objectives. Notwithstanding any provision of state law to the contrary, distinctions between the sexes with respect to athletics, prisons or other detention facilities, domestic violence shelters, rape crisis centers, locker rooms, restrooms and other areas where biology, safety or privacy are implicated that result in separate accommodations are substantially related to the important governmental objectives of protecting the health, safety and privacy of individuals in such circumstances.

(c) Any school district, or public school thereof, and any state agency, department or office or political subdivision that collects vital statistics for the purpose of complying with anti-discrimination laws or for the purpose of gathering accurate public health, crime, economic or other data shall *only* identify each individual who is part of the collected data set as either male or female at birth.

New Sec. 7. Sections 1 through 6, and amendments thereto, are declared severable. Any provision of sections 1 through 6, and amendments thereto, or the application thereof to any person or circumstance that is held to be unconstitutional or invalid shall not affect the validity of any remaining provisions of sections 1 through 6, and amendments thereto, or the applicability of such provisions to any person or circumstance.

Sec. 8. K.S.A. 8-234a and K.S.A. 2025 Supp. 8-243, 65-28,137 and 77-207 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.