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CASE NUMBER: DG-2026-CV-000112

PII COMPLIANT

IN THE SEVENTH JUDICIAL DISTRICT
DOUGLAS COUNTY DISTRICT COURT
CIVIL DEPARTMENT

DANIEL DOE, MATTHEW MOE, KYLE
KOE, NICHOLAS NOE, CAMERON
BROYLES, and DAKOTA WEST,

Plaintiffs,

v.

STATE OF KANSAS, *ex rel* KRIS
KOBACH, Attorney General; KANSAS
DEPARTMENT OF REVENUE, KANSAS
DIVISION OF VEHICLES; DEANN
WILLIAMS, Director of Vehicles, Department
of Revenue, in her official capacity; MARK
BURGHART, Secretary of Kansas
Department of Revenue, in his official
capacity; KANSAS DEPARTMENT OF
ADMINISTRATION; and ADAM
PROFFITT, Secretary of Department of
Administration, in his official capacity,

Defendants.

Case No. DG-2026-CV-000112
Div. No. 4

**PLAINTIFFS' REPLY IN FURTHER SUPPORT OF RENEWED MOTION FOR
TEMPORARY INJUNCTION**

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In its Order denying Plaintiffs’ original motion for a temporary restraining order (“TRO”), the Court explained that it lacked sufficient factual context to evaluate Plaintiffs’ constitutional challenge. At the TRO hearing, “[e]ach side [told] the Court ‘harm will happen’ to their side no matter what the Court does,” but neither side presented actual examples of harm occurring. TRO Memorandum Decision at 3. The Court needed additional evidence to “fairly analyze important concepts like injury to personal autonomy, informational privacy or equality under the law” based on “well-developed factual scenarios that have been subjected to challenge and debate.” *Id.*

The evidence is now in. Through their declarations and in depositions, Plaintiffs describe in excruciating detail how SB 244 upends their daily lives. During the six months that SB 244 has now been in effect, other examples of harm continue to pile up, even when transgender people attempt to comply with the law.¹ To be clear, Plaintiffs agree wholeheartedly “that the vast majority of Kansans are tolerant, understanding, accepting and generally supportive of each other.” TRO Memorandum Decision at 5. Indeed, before SB 244, Plaintiffs used restrooms and carried driver’s licenses consistent with their gender identity for years without incident to themselves, to other Kansans, or to any asserted governmental interest. The problem lies, not with their fellow Kansans, but with their government, which has turned their lives upside down by forcing them to disclose their transgender status in ordinary interactions and excluded them from public facilities they previously used without causing any disruption or discomfort.

On the other side of the ledger, the AG has failed to provide a single example to support its

¹ M. Gessen, *What’s Happening in Kansas Should Alarm Us All*, N.Y. Times, <https://www.nytimes.com/2026/08/13/opinion/kansas-anti-trans-laws-drivers-license.html> (Aug. 13, 2026) (collecting examples of other Kansans harmed by SB 244); Matt Heilman, *Transgender Kansan speaks out after facing charge amid license law confusion*, KWCH, <https://www.kwch.com/2026/07/01/transgender-kansan-speaks-out-after-facing-charge-amid-license-law-confusion/> (July 1, 2026, at 1:17 CDT) (news report of transgender woman charged for driving with invalid license despite complying with SB 244).

assertions that allowing transgender Kansans to have driver’s licenses and use restrooms consistent with their gender identity undermines any of their asserted state interests. *See* Pls.’ Brief in Support of Renewed Motion for Temporary Injunction (“TI Br.”) at 20–26.

Because the record confirms both that SB 244 inflicts concrete and irreparable constitutional injuries on Plaintiffs and that enjoining it would impose no harm on the State, Plaintiffs’ Renewed Motion for a Temporary Injunction should be granted.

I. The Facts Contradict the AG’s Assertions.

A. The AG’s Expert Disagrees With SB 244’s Definition of Sex and Gender.

The AG attempts to cloak SB 244 in a scientific veneer by relying on a distinction that some (but not all) scientists draw between “sex” and “gender.” Citing Dr. Alyson McGregor as their expert witness, the AG argues that “sex” is “biological”, while gender identity refers to “the way people see themselves.” Defendant’s Opposition to Plaintiffs’ Renewed Temporary Injunction Motion (“AG Opp.”) at 4–5. But SB 244 does not track Dr. McGregor’s distinction between the two terms—it actively undermines that distinction.

Before SB 244, Kansas law had distinguished between “gender” and “sex” on driver’s licenses for more than 15 years. Since 2007, the Kansas Motor Vehicle Drivers’ License Act had required a driver’s license to identify the licensee’s “gender,” not “sex.” *See* K.S.A. 8-240; K.S.A. 8-243. As the Kansas Court of Appeals explained in *State ex rel. Kobach v. Harper*, 65 Kan. App. 2d 680, 694 (2025), although the Legislature did not specifically define “gender” when it amended the Act in 2007, KDOR interpreted that term as distinct from “sex” and, consistent with that interpretation, “started allowing gender reclassifications on Kansas driver’s licenses.” *Id.* at 714. That statutory distinction between “sex” and “gender” mattered, as the Court of Appeals relied on it to hold that the AG had not established a likelihood of success in arguing that KDOR’s driver’s

license policy permitting gender marker changes was illegal. *Id.* at 722 (“But the Legislature has not enacted legislation consistent with the AG’s argument that gender and sex mean the same thing. Instead it seems to be attempting to clarify the difference between those two terms...”).

SB 244 responded to the AG’s loss in *Kobach v. Harper* by erasing the statutory distinction between “sex” and “gender” and instead defining both “sex” and “gender” as “biological sex, either male or female, at birth.” K.S.A. 77-207(a)(1). And it erased other previous definitions of “gender.” *See* TI Br. Ex. 9, Swonger Decl., Ex. I at 253 (SB 244’s amendment of K.S.A. 65-28,137 to remove the definition of “gender”).

Dr. McGregor disagrees with SB 244’s definitions because the definition of “gender” that SB 244 eliminated was correct. Ex. 1, McGregor Dep. 190:11-191:16. She testified that SB 244’s definition of “biological sex” was “limited” and “not fully baked” because it defined “biological sex” solely based on chromosomes and not also based on hormonal effects on anatomy. *Id.* at 191:17–194:20. And she disagreed with SB 244’s definition of “woman” as a “human female” and “man” as a “human male.” *Id.* at 194:25–195:17. Dr. McGregor said those definitions improperly conflate sex and gender because the terms male and female refer to a person’s “biological sex,” but the terms “man” and “woman” more accurately refer to a person’s gender identity and expression. *Id.* at 191:6–10, 195:18–196:16. Even so, Dr. McGregor acknowledged that studies suggest there is a biological basis for gender identity, and that gender identity can, through a complex process of social or cultural effects, gender affirming medical care, or epigenetics alter everything from DNA expression to secondary sex traits. *Id.* at 138:5–139:9, 199:2–201:4.

SB 244 does not reflect a medical or scientific distinction between “sex” and “gender.” It does the opposite; it collapses the distinction by defining gender out of existence, contrary to the very scientific testimony offered by the AG’s own expert.

B. The AG Ignores the Requirements of the Preexisting KDOR Policy.

The AG argues that allowing transgender Kansans to obtain licenses reflecting their gender identity replaces an objective and verifiable characteristic with an inherently subjective and unverifiable one. But the preexisting KDOR Policy—which would be reinstated if SB 244 is enjoined—did not provide updated driver’s licenses solely based on a person’s internal feelings. The policy required “A letter from your licensed medical, osteopathic physician stating you have undergone the appropriate clinical treatment for change of gender, or that the physician determined that gender reclassification based on physical criteria is appropriate.” Am. Pet. Ex. 3; TI Br. Ex. 7, KDOR Responses to Plaintiffs’ Interrog. No. 11.² There is nothing subjective or unverifiable about the fact that a person has received gender affirming medical care, or a physician’s letter attesting to clinical treatment. As Dr. McGregor says, a patient’s current anatomy “is a biological fact about that patient’s body and tells the clinician what to screen for and what to consider in the differential diagnosis,” and a “patient’s current hormonal status, meaning which exogenous hormones or hormone-modulating medications they are taking, at what dose, and for how long, is also a biological fact and affects pharmacology and physiology.” TI Br. Ex. 31, McGregor p.5. An intersex condition is objective, verifiable, and testable, too. TI Br. Ex. 6, Turpin ¶27, 35, 44; TI Br. Ex. 31, McGregor p.13.

The AG’s expert, Dr. James Cantor, has supported medical and social transition for people who used to be referred to as “transsexuals” in accordance with terminology used in older versions

² As a KDOR representative already testified during the *Kobach v. Harper* trial: “Sex cannot just be changed or gender cannot just be changed by anybody at any point in time. It needs to be submitted to what’s considered our central office to review the documents that are actually coming from the physician. And that the physician is telling us that the individual’s gone through enough of this process that they are -- should have a gender reclassification.” See TI Br. Ex. 15, AG’s Supp. RFP Resp. No. 9 (citing KOBACH_000148); Ex. 2, *Kobach v. Harper*, Hr’g Tr. 99:2-11.

of the Diagnostic and Statistical Manual for Mental Disorders (DSM). AG Opp., Ex. 4, Cantor ¶¶166–172, 221–227; Ex. 3, Cantor Dep. 137:18–144:16. Dr. Cantor just disagrees with a change in terminology introduced around 2010, which replaced the term “transsexual” with the term “transgender,” because “transsexual” refers to “somebody who ha[s] completed a medical transition process” and “did everything they could to medically transition and live their lives as the other sex.” Ex. 3, Cantor Dep. 34:21-25. But that terminological distinction is irrelevant here. Plaintiffs are transgender men and an intersex woman who medically transitioned and live their lives in accordance with their gender identity—people who would be referred to as “transsexuals” under the old terminology favored by Dr. Cantor.

C. The Facts Show the License Restriction Does Not Aid Law Enforcement.

The undisputed evidence contradicts the AG’s argument that SB 244 serves a governmental interest in “ensuring driver’s licenses contain accurate and unchangeable information to facilitate identification by law enforcement.” AG Opp. at 7. The AG offers variations on that theory: that driver’s licenses provide law enforcement with immutable identifying characteristics; that requiring sex assigned at birth prevents mismatches among law-enforcement databases; and that the sex designation assists officers conducting searches. The record supports none of these.

First, a sex designation is neither necessary nor useful as the “objective, constant verifiable data-point” the AG claims law enforcement needs to determine “who you were yesterday and the day before.” AG Opp. at 7. Kansas already assigns every licensed driver precisely such an identifier: the driver’s license number, or “K number.” As a representative of KDOR testified (under oath and subject to cross-examination) during the *Kobach v. Harper* trial, the purpose of a driver’s license is “to give accurate information about of the individual at the most current time that we have it.” See TI Br. Ex. 15, AG’s Supp. RFP Resp. Nos. 9 (citing KOBACH_000183); Ex.

2, *Kobach v. Harper*, Hr’g Tr. 134:10–11. The AG’s expert Sheriff Hill agreed that “what you look like right now would be more helpful for us, if all that was accurate and correct.” Ex. 4, Hill Dep. 28:20–29:11; *see also id.* 40:6–41:7. The license’s descriptive information identifies the person as they are now. The K number—not sex marker—supplies historical continuity: it remains constant except in extraordinary circumstances, such as identity theft. *See* TI Br. Ex. 15, AG’s Supp. RFP Resp. Nos. 9 (citing KOBACH_000194–95); Ex. 2, *Kobach*, Hr’g Tr. 145:5–146:1. Even then, the old and new numbers are linked so that “nothing is lost” and the person’s history remains connected. *Id.* Gender marker changes do not sever the connection.

Second, the AG’s database-mismatch theory is unsupported by evidence. The databases do not depend on an unchanging sex designation to establish identity or to perform a search. KDOR information is directly linked to the information in searches of the Kansas Offender Registration Tool, so there can never be a “mismatch” between the two. Ex. 15 Swonger ¶2, Ex. A at 1–2. Kansas law enforcement uses a Computerized Criminal History (“CCH”), an individual master record containing demographic information and criminal-history information. *Id.* Sex in CCH is not static and can be updated. *Id.* CCH also contains biometric information based on fingerprints. *Id.* The AG could not identify any circumstance where law enforcement would need to search for a person based on sex, rather than a more individualized identifier, such as a name, Social Security number, date of birth, fingerprint, or K-number.

Other databases—the National Crime Information Center (NCIC), Interstate Identification Index (III), and NLETS: International Justice and Public Safety Network—do not require that Kansas must freeze a license holder’s sex designation at birth to permit reliable identification. The evidence instead shows that officers use other identifiers. Sheriff Hill acknowledged that an accurate name and date of birth already narrow the universe of possible matches. Ex. 4, Hill Dep.

44:10–14; *see also* TI Br. Ex. 29, Donegan ¶48-50 (responding to Hill). The AG offered no evidence that these methods cease to work when a gender marker changes.

Most tellingly, the AG’s witnesses could not identify a single real-world identification problem. Jacobs had never encountered a problem resulting from a license’s sex designation in 29 years, Ex. 5, Jacobs Dep. 42:1–15, and could identify no problem such a designation had caused KBI’s databases, *id.* 73:13–24. Hill likewise knew of no instance in which anyone evaded arrest because of the sex designation on a license. Ex. 4, Hill Dep. 55:24–56:8. His only example in 30 years involved a person whose sex differed from what Hill expected, but “it all worked out” and the person did not evade arrest. *Id.* 64:9–65:3. An incident in which the asserted problem never materialized is not evidence that SB 244 solves that problem.

Third, the evidence refutes the AG’s assertion that a birth-sex designation is necessary for safe pat-downs and searches. Protective frisks exist to detect weapons and protect officers’ safety. Kansas law authorizes an officer who reasonably believes safety requires it to frisk a person “for firearms or other dangerous weapons”; it does not condition that authority on inspecting a driver’s license or determining sex. K.S.A. 22-2402(2). Plaintiffs’ rebuttal expert Sgt. Liz Donegan likewise explained that “[a]t no point during [a pat-down] does the officer need to know, confirm, or verify a person’s biological sex.” TI Br. Ex. 29, Donegan ¶42–43. Officers have long searched people of a different sex, as well as transgender people, because officer safety controls the search. *Id.* The AG’s witnesses confirmed the point. Sgt. Stammer had never been in danger because he searched a transgender person whom he initially believed to be a different sex. TI Br. Ex. 28, Stammer Dep. 61:1–62:9. Sheriff Hill identified no such problem in 30 years. Ex. 4, Hill Dep. 50:22–51:11. And when uncertainty arises, officers can simply ask about someone’s sex, as Sgt. Stammer has done, TI Br. Ex. 28, Stammer Dep. 64:6–20, or use established techniques such as

using the back of the hand near sensitive areas, activating a camera, and having another officer witness the search, TI Br. Ex. 29, Donegan ¶46. Sgt. Stammer’s agency has only two female officers, so male officers routinely search female suspects. TI Br. Ex. 28, Stammer Dep. 62:10–63:1. Law enforcement already operates on the practical premise that officers can safely and professionally search people regardless of sex.

In short, the AG could not identify an identification failure, escaped arrest, database problem, or officer-safety incident caused by a gender marker reflecting a transgender person’s gender identity.³ The evidence does not show that SB 244 furthers any law enforcement interest.

D. The Facts Show the License Restriction Does Not Help Doctors.

The undisputed evidence also contradicts the AG’s argument that SB 244 serves a governmental interest “in ensuring driver’s licenses carry information of clinical value to doctors.” AG Opp. at 7. The evidence failed to support the AG’s speculation that physicians rely on driver’s licenses to communicate a person’s sex assigned at birth or other clinically relevant information.

First, both sides’ experts agree that a person’s sex *and* their gender identity (including any gender affirming medical care) are *both* clinically relevant in an emergency context. TI Br. Ex. 31, McGregor p.5; TI Br. Ex. 33, Finneran ¶18. They also agree that making assumptions based on birth sex or “biological sex” can miss important information from natural human variations, intersex conditions, and surgical or hormonal treatments. TI Br. Ex. 32, McGregor Dep. 133:3–134:24; TI BR. Finneran ¶19. For example, Dr. McGregor testified that medical providers need to

³ The AG had no documents or discovery showing these, either, but instead pointed to expert reports, which also had no examples. See Ex. 6, AG’s Supp. Rog. Resp. Nos. 16–18; TI Br. Ex. 15, AG’s Supp. RFP Resp. Nos. 7–8, 11. See also *Kobach v. Harper*, 65 Kan. App. 2d at 700–01 (“The district court committed an error of fact by concluding there was evidence—*any* evidence beyond mere speculation—to support a finding that law enforcement would be immediately hindered in the identification of suspects, victims, wanted persons, missing persons, detainees, and others if the driver’s license did not display the driver’s sex assigned at birth.”).

know a “patient’s current anatomy” and “current hormonal status,” IT Br. Ex. 31, McGregor p.5, but that license sex markers do not convey current anatomy or hormones, just that it “implies” information, and so “you’d have to have a conversation with the patient” about their bodies. TI Br. Ex. 32, McGregor Dep. 133:3–134:4.

Second, the evidence failed to support the AG’s speculation that physicians rely on driver’s licenses to disclose transgender patients’ birth sex. Dr. McGregor provided no examples of how including birth sex on a patient’s license helped her in a clinical setting. And in many instances, someone’s sex or whether they are transgender is not relevant to treatment. *Id.* 72:4–15, 99:19–100:1. And Dr. McGregor testified that she believes it’s important to know someone’s sex, gender, and hormones, but so long as the information about sex is reliable, the source doesn’t matter clinically. TI Br. Ex. 32, McGregor Dep. 183:23–85:21. Indeed, Dr. Finneran testified that ER doctors do not rely on licenses to carry out clinical care, and using licenses to make assumptions about a patient before conducting an exam, speaking to the patient, or consulting electronic medical records would not be good clinical practice. TI Br. Ex. 33, Finneran ¶24.

The evidence failed to disclose any instance in which a transgender person’s license interfered with their treatment or in which their birth sex was difficult to determine. Dr. McGregor has practiced as an emergency medicine physician for over twenty years, but she could not identify any situation where the gender marker on a person’s driver’s license interfered with treatment—or even any instance in which she relied on the license to ascertain a patient’s sex. Ex. 1, McGregor Dep. 37:16–38:4, 39:1–41:4, 99:15–18. For the only case in which she could recall treating a transgender patient, she did not recall the license playing any role in that incident. *Id.* 94:14–97:16.

That is probably why Dr. McGregor clarified that in explaining the clinical relevance of sex, she was not actually offering an opinion “about what driver’s licenses should say as a matter

of public policy with respect to sex or gender,” or about the potential negative consequences of including “biological sex” on a driver’s license Ex. 1, McGregor Dep. 34:8–11, 83:22–84:1. In contrast to Dr. McGregor’s inability to recall treating any specific transgender patients (other than one teaching case), Dr. Finneran estimates that she has knowingly treated 50-100 transgender patients and that in an average month she treats 2-4 transgender patients. TI Br. Ex. 33, Finneran ¶15. Dr. Finneran’s un rebutted opinion is that the negative consequences of requiring transgender patients to include their birth sex on their license include potential misgendering or confusion that does not improve patient care. TI Br. Ex. 33, Finneran Decl. ¶37–38, 40.

Once again, the evidence shows no actual support for the AG’s assertions that SB 244 advanced an asserted governmental interest in conveying accurate clinical information to doctors.

E. The Facts Show the Restroom Ban Does Not Protect Safety or Privacy.

There is no record evidence supporting the AG’s argument that the Restroom Ban promotes a governmental interest in safety or privacy. Plaintiffs’ un rebutted evidence says the opposite. “There is no data-based evidence to support the assertion that transgender and intersex inclusive bathroom policies put women and girls, or anyone else, at an increased risk of being victimized, or that transgender or intersex people commit sex crimes at a higher rate than cisgender people.” TI Br. Ex. 17, Calkins ¶23. And “[s]everal studies have found that policies permitting transgender people to use restrooms consistent with their gender identity do not increase victimization of restroom users.” TI Br. Ex. 11, Scheim ¶24. The AG’s expert conceded that he is not aware of any studies finding that allowing transgender people to use restrooms consistent with their gender identity increases voyeurism, exhibitionism, harassment, or sexual assault. TI Br. Ex. 18, Cantor Dep. 202:8–205:7.

Despite the AG’s references to “safety,” all of the AG’s evidence from fact witnesses related

to witnesses' discomfort with the mere presence of transgender girls and women in the restroom. The AG presented four fact witnesses, Bailey Boe, Sally Soe, Jane Doe, and Tim Tanner, all of whom made clear that they (and their children) have never been harmed or subjected to inappropriate conduct by a transgender person in a restroom. In fact, only two of the witnesses had been in a facility with a transgender woman or girl. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The testimony also showed that SB 244 undermines the AG's asserted interests in avoiding discomfort for cisgender women by requiring transgender men to use the women's restroom. The AG's fact witnesses testified that they would be uncomfortable with anyone who *appeared* to be a man, including transgender men, in women's restrooms. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Critically, the depositions of the AG's fact witnesses demonstrate that they—like most people—cannot tell the difference between a cisgender person and a transgender person. The

witnesses who were shown photo arrays could not readily identify which of the people were transgender and which were not. [REDACTED]

[REDACTED] Indeed, transgender men entering women’s restrooms are perceived to be in the wrong restroom. Ex. 11, Koe Dep. 125:1–15.⁴

The evidence once again shows that the AG’s asserted interests were based on pure speculation unconnected to any actual safety or privacy violations, and that SB 244 likely undermined the AG’s asserted interests instead of advancing it.

F. The Facts Show That SB 244 Harms Plaintiffs.

Through their declarations and deposition testimony Plaintiffs have explained in detail the ways in which the Restroom Ban and License Restriction cast a shadow over their daily lives. But the AG’s recitation of facts is filled with falsehoods and distortions. Just a sampling:

Kyle Koe: It is simply untrue that Kyle “has never had trouble” using women’s restrooms at work. AG Opp. at 11. Kyle has negative encounters “multiple times a week.” Ex. 11, Koe Dep. 125:1–15 (“...I get stared at a lot. Women will exclaim when I’m there, like an ‘oh’ or ‘um.’ Kind of glare at me. I’ve had women whisper to each other while they’re at the sink pointing at me.”). And Kyle testified that he is being forced to convey the state’s message because he is seen as the messenger when handing over his license. *Compare* AG Opp. at 10 *with* Ex. 11, Koe Dep. 105:1–

⁴ Zach Boblitt, *Transgender men in Kansas ‘compliance crew’ use women’s bathrooms to protest state law*, The Lawrence Times, <https://lawrencekstimes.com/2026/08/20/kns-compliance-crew/> (Aug. 20, 2026) (news report of transgender men reported to police for using women’s restrooms).

6 (Q: “And you think that message is coming from you?” [Objection to form] A: “I don’t believe it’s coming from me, but I think that’s how it reads to other people.”); *id.* 105:18–24 (Q: “When you hand someone else your driver’s license, do you believe that that person understands Kyle Koe to be saying my sex is female?” [Objection to form.] A. “I think so, yes.”).

Dakota West: It is untrue that Dakota no longer has a Kansas license or “discarded [it] to obtain a Tennessee driver’s license.” AG Opp. at 10. The cited portion of Dakota’s deposition states that she has *not* yet obtained a Tennessee driver’s license. *See* Ex. 12, West Dep. 14:8–10. And the AG ignores that, had SB 244 not been in effect, Dakota would have left Kansas six months later. TI Br. Ex. 8, West ¶51; Ex. 12, West Dep. 13:16–22.

Cameron Broyles: Cameron testified that he regularly visits his children’s public school and takes his children to events at other public schools and the public library. *See* TI Br. Ex. 1, Broyles ¶40; Ex. 13, Broyles Dep 91:11–96:8. The AG’s assertion that Cameron “is not aware of any government buildings entered on regularly” is at best misleading. AG Opp. at 11.

Nicholas Noe: The AG asserts that there is a single-user restroom where Nicholas works, AG Opp. at 12, but omits that he testified that he is not allowed to use that restroom. *See* TI Br. Ex. 5, Noe ¶42; Ex. 14, Noe Dep. 45:5-23. The AG invents an inconsistency between the Amended Petition and Nicholas’ deposition testimony, AG Opp. at 12, by ignoring that Nicholas misses class time based on the round-trip to the restroom and any wait-time to use it (10 minutes) and not the one-way journey (3-4 minutes). *See* TI Br. Ex. 5, Noe ¶41.

The AG disregards the actual facts of this case to argue that Plaintiffs are not harmed by SB 244. But the reality of Plaintiffs’ lives over the past six months is that they have been pushed out of social and civic life—and in Dakota West’s case, literally pushed out of Kansas.

II. Plaintiffs Are Likely To Succeed on Their Constitutional Claims.

A. SB 244 Violates Kansans' Fundamental Right to Personal Autonomy.

Section 1 of the Kansas Bill of Rights protects personal autonomy, including individuals' ability "to exercise self-determination." *Hodes & Nauser, MDs, P.A. v. Schmidt*, 309 Kan. 610, 646 (2019) (*Hodes I*), "to shape, for oneself, without unwarranted governmental intrusion, one's own identity, destiny, and place in the world," *id.* at 649 (internal quotation marks and citations omitted), and "to define and express their identity." *Obergefell v. Hodges*, 576 U.S. 644, 651–52 (2015). Transgender men and women exercise autonomy and self-determination by living their lives and participating in society as men and women.

The AG offers two counterarguments—that Plaintiffs' autonomy rights do not exist, and that SB 244 does not infringe on those rights in any event. Neither argument has any merit.

The AG's first incorrect argument is that the fundamental right to personal autonomy is limited to bodily autonomy and abortion and does not include the ability of transgender men and women to live as men and women. But *Hodes I* and *Hodes II* did not limit personal autonomy to bodily integrity or the ability to have an abortion. Rather, "each asserted right must be carefully examined and evaluated independently in the context of its own unique implications," *Hodes & Nauser, MDs, P.A. v. Stanek*, 318 Kan. 995, 1013 (2024) (*Hodes II*), to determine "whether, like abortion, that interest has profound and unique attributes that bring it within section 1's meaning of personal autonomy." *Id.* at 1035 (Rosen, J., concurring).

Plaintiffs' right to personal autonomy meets that test. A person's identity as a man or a woman is a core aspect of personality and essential part of their identity.⁵ It is a profound and

⁵ TI Br. Ex. 2, Doe ¶11 (living as a man allows him to be his "true self"); *Id.*, Ex. 4, Moe ¶25 ("[m]y maleness is a core part of my identity"); *Id.*, Ex. 3, Koe ¶39 ("I am a man and live my life as a man"); *Id.*, Ex. 1, Broyles ¶11(his male gender identity permits him to "exist as [his] full,

unique attribute that is central to their ability to shape their own identity and place in the world. “A transgender person’s awareness of themselves as male or female is no less foundational to their essential personhood and sense of self than it is for those born with female genitals to identify as female, or for those born with male genitals to identify as male. History demonstrates that this self-conception is unshakeable indeed.” *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 624 (4th Cir. 2020), as amended (Aug. 28, 2020) (Wynn, J., concurring).

Plaintiffs’ personal autonomy rights also fall squarely within the Lockean tradition. “[T]he natural-law right to control one’s own body and to exercise self-determination stands firmly on the shoulders of the Lockean philosophies embraced in section 1’s natural rights, which include liberty and the pursuit of happiness.” *Hodes I*, 309 Kan. at 643–44. Transgender people in the United States have long invoked those principles to advocate for their freedom to legally and socially transition—often with success. See Brianne Felsher, “*Sex Changed by a Court’s Decree*”: *The History and Tradition of Gender Transitions in the United States*, 114 Geo. L.J. 911 (2026) (discussing examples of transgender people receiving legal recognition for living consistent with their identity in the 1800s).

The AG’s second incorrect argument is that SB 244 does not actually infringe on Plaintiffs’ autonomy rights to live and express their gender identity because it does not “regulate how Plaintiffs identify and present themselves to the world. It simply regulates the government’s documents and facilities.” AG Opp. at 17. But that ignores the fact that “[g]overnment issued identification documents”—and the ability to use restrooms—“are necessary to access public life.” *Kalarchik v. State*, 427 Mont. 333, 348 (2026). “When they do not accurately reflect a person’s

authentic self”); *Id.*, Ex. 5, Noe ¶7 (“I am a man”); *Id.*, Ex. 8, West ¶25 (her female gender identity allows her to “live as [her] true self”).

sexual identity, the transgender [Kansan] is prevented, based on their sex, from obtaining the same attributes of public life that a cisgender [Kansan] may obtain.” *Id.* In prohibiting transgender and intersex Kansas from accessing these necessities of public life, SB 244 “infringes on [their] capacity to protect [their] privacy and live a self-directed life in the same fashion as a cisgender” person. *Id.* at 357 (Baker, J., specially concurring).

The undisputed record evidence illustrates how, under SB 244, transgender and intersex Kansans “have their lives burdened, by reason of government decree.” *United States v. Windsor*, 570 U.S. 744, 772 (2013). SB 244 puts Plaintiffs in an impossible position of either preserving their identity or retreating from public life. Daniel Doe has stopped purchasing medication. TI Br. Ex. 2, Doe ¶¶26, 36. Cameron Broyles must cross state lines to find a public pool for his kids, and he avoids completing housing rental applications. TI Br. Ex. 1, Broyles ¶¶39, 31. Matthew Moe has shut down his social life by choosing not to go to concerts at public universities or age-restricted music venues. TI Br. Ex. 4, Moe ¶¶54, 32. Dakota West was forced to leave a public campus because she did not know whether there was a single user restroom and “using the men’s restroom is a terrifying prospect.” TI Br. Ex. 8, West ¶¶42. Nicholas Noe stopped going to his local library and his community college on days where he does not have class. TI Br. Ex. 5, Noe ¶¶30. Kyle Koe has stopped going on walks to university buildings, stopped attending conferences, and stayed home from community events after learning that they were in a public library. TI Br. Ex. 3, Koe ¶¶37.

The AG dismisses Plaintiffs’ harms as “self imposed” and says their experiences “cannot be generalized to every person and every situation.” AG Opp. at 17. But studies show that Plaintiffs’ experience is common and widely representative. *See* TI Br. Ex. 11, Scheim ¶¶29, 31 (discussing studies of transgender people avoiding restrooms); *id.* ¶¶38, 40 (discussing studies of transgender people with gender-discordant identity documents); Ex. 6, Turpin ¶¶55 (discussing

examples of transgender people holding their urine). It is no surprise that “transgender individuals often anticipate stigma and discrimination in interpersonal and institutional interactions and may avoid such situations as a means of self-protection.” Ex. 11, Scheim ¶41.

The evidence in this case is more than sufficient to demonstrate that SB 244 “actually impairs” Plaintiffs’ autonomy to live and express their gender identity as part of their daily life. *Hodes II*, 318 Kan. at 1008. And the AG’s argument that the only way to infringe on the fundamental right to personal autonomy is to issue a categorical ban on expressing one’s identity was squarely rejected by *Hodes II*. As the Kansas Supreme Court explained, “once a plaintiff proves an actual infringement—regardless of degree and even if the infringement is slight—the government’s action is presumed unconstitutional, and the burden shifts to the government to establish the requisite compelling interest and narrow tailoring of the law to serve it.” *Id.* at 1009. As in *Hodes II*, because the government has burdened Kansans’ fundamental right to personal autonomy (even if it has not issued an outright ban) it must justify that burden under strict scrutiny—a standard that the AG does not even attempt to meet.

B. SB 244 Violates Kansans’ Fundamental Right to Informational Privacy.

The Restroom Ban and License Restriction violates the fundamental right to informational privacy in Section 1 of the Kansas Bill of Rights, which is at least as protective as the right to privacy in the federal Constitution. *See Alpha Med. Clinic v. Anderson*, 280 Kan. 903, 919–22 (2006). Transgender status is “intimate personal information entitled to protection under the right to privacy.” *In re M.T.*, 106 Cal. App. 5th 322, 341 (2024); *K.L. v. State, Dep’t of Admin., Div. of Motor Vehicles*, No. 3AN–11–05431 CI, 2012 WL 2685183, at *6 (Alaska Super. Ct. Mar. 12, 2012) (requiring Alaskans to carry licenses disclosing transgender status violates privacy rights).

Plaintiffs provide specific examples where complying with SB 244 forced them to disclose

that they were transgender or intersex in embarrassing and demeaning ways. Dakota was outed to a bank teller, who “closely scrutinized” the “M” gender marker on her license with “a look of disgust” making her feel “humiliated and afraid.” TI Br. Ex. 8, West ¶¶36–37. Daniel was outed to a co-worker who saw him entering and exiting a gender-neutral restroom located immediately next to a men’s restroom, leaving him frustrated and defeated. TI Br. Ex. 2, Doe ¶¶42, 48–49. Matthew was outed at a conference, where “people kept staring,” making him “feel embarrassed, humiliated, and scared.” TI Br. Ex. 4, Moe ¶¶36. Nicholas was outed to his classmates, and his instructor humiliated him by making a student do a “pelvic assessment” of him. TI Br. Ex. 5, Noe ¶¶31, 35–36. Kyle has been physically confronted, “stared at a lot,” “exclaimed at,” “pointed at,” whispered about, and asked why he is using the women’s restroom. TI Br. Ex. 3, Koe ¶¶30–33. Cameron was outed to a hotel clerk while traveling with his child, and at work, where five people asked about his license, one saying “I had no idea that you were trans[gender].” Ex. 13, Broyles Dep. 77:11–13; TI Br. Ex. 1, Broyles ¶¶24–27.

Courts have already rejected the AG’s argument that Plaintiffs have no privacy interest in this kind of forced disclosure of their transgender status because some of them have posted about being transgender on their private social media. *See Ray v. McCloud*, 507 F. Supp. 3d 925, 934 (S.D. Ohio 2020). As the *Ray* court explained, “The fact that Plaintiffs are proud of their transgender status and have shared such information on their personal social media accounts or with friends and family in no way negates their right to not be forced to disclose such private and personal information except on their own terms and in environments they chose.” *Id.* at 934. Plaintiffs remain fearful of involuntary disclosure in unpredictable face-to-face interactions with strangers with the potential for violence. Cameron is particularly worried about being “stopped or questioned while [his] children are present, they will feel uncomfortable, confused, or unsafe.” TI

Br. Ex. 1, Broyles ¶¶29. Dakota has never told strangers that she is intersex in person. Ex. 12, West Dep. 74:18–19, 76:5–8. And in any event, the AG mischaracterizes the nature and scope of Plaintiffs’ social media presence, much of which is not linked to their legal names. *See, e.g.*, Ex. 14, Noe Dep. 57:11–15; Ex. 11, Koe Dep. 91:15-16, 96:11–13.

Under the AG’s theory, if a person has written on social media that they have had an abortion or that they are living with HIV, then the government would be free to put that information on their driver’s license. The Kansas Bill of Rights does not condone that kind of government intrusion on personal privacy, nor would ordinary Kansans expect or accept that kind of state interference with personal autonomy.

C. The License Restriction Violates Kansans’ Freedom From Compelled Speech.

SB 244’s License Restriction unconstitutionally compels Plaintiffs to convey the government’s ideology, in violation of Section 11 of the Kansas Bill of Rights. The AG argues that the content of a driver’s license is government speech. But “government speech, if foisted upon an unwilling private party, still implicates compelled-speech concerns.” *Cressman v. Thompson*, 798 F.3d 938, 961 (10th Cir. 2015); *accord Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 219 (2015) (explaining that characterizing license plate designs as “government speech does not mean that the designs do not also implicate the free speech rights of private persons.”). And many courts have already rejected the argument trying to distinguish compelled speech on driver’s licenses versus license plates. *See McGuire v. Marshall*, 741 F. Supp. 3d 1112, 1199 (M.D. Ala. 2024); *Nelson v. Landry*, 714 F. Supp. 3d 790, 809 (M.D. La. 2024); *State v. Hill*, 341 So.3d 539, 549 (La. 2020); *Doe I v. Marshall*, 367 F. Supp. 3d 1310, 1326 (M.D. Ala. 2019).

Courts have also rejected the argument that being forced to convey speech through a license is analogous to using currency with the U.S. motto. “[C]urrency is not personalized; it says not a

word about the person who holds it...Identification cards, by contrast, are personalized. They are meant to convey substantive personal information about their holders...” *Doe I*, 367 F. Supp. 3d at 1326; accord *State v. Hill*, 341 So.3d. 539, 550 (La. 2020). And there is state action when state documents disclose transgender status. See *Ray v. Hines*, No. 2:18-CV-272, 2019 WL 11791719, at *10 (S.D. Ohio Sept. 12, 2019) (“When Plaintiffs present their birth certificates, the discrepancy between their physical appearance, other identity documents, and their birth certificates force disclosure of Plaintiffs’ transgendered status.”).

The AG finally argues that the License Restriction does not compel speech because it reflects a statement of historical fact. But protections from compelled speech apply to facts as well as opinions. See *Doe I*, 367 F. Supp. 3d at 1324 (citing *Riley v. Nat’l Fed. of the Blind*, 487 U.S. 781, 797–98 (1988)). Moreover, the licenses mandated by SB 244 convey an ideological message, not a purely factual one. As discussed above, the Kansas Motor Vehicles Drivers Licenses Act states that licenses are supposed to display a person’s “gender.” But SB 244 redefined “gender” out of existence by providing that “gender” now “means such individual’s biological sex, either male or female, at birth.” K.S.A. 77-207. SB 244 also provides that a person’s sex assigned at birth is the exclusive definition of what it means to be a woman or a man. Every time a transgender or intersex Kansan must display their driver’s license, they are forced to be a conduit for that message.

D. SB 244 Violates Kansans’ Right to Equal Protection.

SB 244’s Restroom Ban and License Restriction classify transgender and intersex Kansans based on their sex and transgender or intersex status, in violation of the equal protection guarantee contained in Section 2 of the Kansas Bill of Rights.

The AG argues that, under *Rivera v. Schwab*, 315 Kan. 877, 894 (2022), Kansas’s equal protection guarantee must be interpreted in lockstep with the U.S. Supreme Court’s interpretation

of the Fourteenth Amendment’s Equal Protection Clause. But that dicta arose in the context of gerrymandering claims. And even if *Rivera*’s dicta extended beyond gerrymandering, that dicta at most reflects the respective scopes of Section 2 and the Fourteenth Amendment at the time *Rivera* was decided in 2022. *Rivera* could not prospectively pre-commit Kansas courts to follow in lockstep with however the U.S. Supreme Court interprets the Fourteenth Amendment in the future. *See People v. Jennings*, No. 165764, 2026 WL 2140256, at *20 (Mich. July 24, 2026) (explaining that “an intent to incorporate some then-existing federal protections into” interpretation of a state constitutional provision does not “translate[] to eternal ‘lockstepping’ with federal jurisprudence, no matter the novelty or unforeseeable nature of subsequent federal interpretations”). That is particularly true here, where the recent U.S. Supreme Court decisions post-dating *Rivera* were sharply divided and departed from preexisting precedent.⁶

But even if Section 2 of the Kansas Bill of Rights provided no more protection than the Equal Protection Clause of the Fourteenth Amendment, SB 244 would still be invalid. There is no “[c]ontrolling United States Supreme Court precedent” regarding transgender and intersex individual’s use of public restrooms or the marker on their licenses. The AG’s discussion of recent precedent is riddled with errors. *See* AG Opp. at 21 (wrongly asserting that the Supreme Court has held that transgender status is not a suspect classification); *id.* at 23 (wrongly asserting that *B.P.J.* applied rational basis review instead of heightened scrutiny). And the weight of lower-court authority holds that such policies are unconstitutional. *See Grimm*, 972 F.3d at 613–14 (restroom policy excluding transgender boy from boys’ restrooms was not substantially related to important

⁶ *See West Virginia v. B. P. J. by Jackson*, 146 S. Ct. 2356, 2395 (2026) (Sotomayor, J., dissenting) (explaining that the majority opinion “elevates the reasoning of earlier dissents and lowers the State’s burden for justifying the use of sex classifications in potentially all cases”); *United States v. Skrmetti*, 605 U.S. 495, 598 (2025) (Sotomayor, J., concurring) (explaining that majority opinion “runs counter to decades of equal protection precedents”).

interest in protecting privacy); *A.C. by M.C. v. Metropolitan Sch. Dist. of Martinsville*, 75 F.4th 760, 773 (7th Cir. 2023) (similar policy was “fighting a phantom. Gender-affirming facility access does not implicate the interest in preventing bodily exposure, because there is no such exposure.”); *Ray v. McCloud*, 507 F. Supp. 3d 925, 938-40 (S.D. Ohio Dec. 16, 2020) (policy prohibiting gender marker changes to birth certificates did not survive heightened scrutiny or rational basis review).

Laws excluding transgender people from restrooms consistent with their gender identity classify based on both sex and transgender status. *See Grimm*, 972 F.3d at 608–09; *Roe v. Critchfield*, 137 F.4th 912, 922–23 (9th Cir. 2025). The AG argues that, under *B.P.J.*, excluding transgender people from those restrooms is constitutional because restroom use is a context in which the separation is based on real biological differences. But in *B.P.J.* all the parties agreed that sex separation in athletics was based on real biological differences. By contrast, Plaintiffs argue that for public restrooms, the relevant separation is based on lived gender, not biology. *See Am. Pet.* ¶¶74–79. When Plaintiffs walk into a public restroom, no one sees their birth sex; other people react instead to their gender identity, as lived in their daily lives. Ex. 11, Koe Dep. 125:1-15.

The License Restriction also discriminates based on sex and transgender status. All Kansans are similarly situated in their need for identity documents that match their gender identity and presentation, but under SB 244 only non-transgender Kansans can obtain such licenses. *See Kalarchik v. State*, 427 Mont. 333, 349 (2026). The U.S. Supreme Court’s emergency stay order in *Orr* regarding gender markers on passports was “not conclusive as to the merits” of a federal legal issue, *Trump v. Boyle*, 145 S. Ct. 2653, 2654 (2025), much less “controlling authority” on the scope of the Kansas Constitution. And unlike passports, driver’s licenses reflect a person’s *current* identifying information, not “historical fact[s]” such as their place of birth or their birth sex.

It is one thing for the AG to argue (unpersuasively) that the discrimination created by SB

244 is justified by sufficient governmental interest. But in arguing that SB 244 does not even subject transgender and intersex Kansans to differential treatment, the AG asks this Court “to exhibit a naiveté from which ordinary citizens are free.” *Dep’t of Com. v. New York*, 588 U.S. 752, 785 (2019). SB 244 had no effect on non-transgender Kansans, but it has turned Plaintiffs’ lives upside down. Just as a law penalizing same-sex intimate conduct discriminates against gay people, *see State v. Limon*, 280 Kan. 275, 284 (2005), a law preventing people from using restrooms or possessing driver’s licenses consistent with their gender identity discriminates against Plaintiffs as transgender and intersex Kansans.

E. SB 244 Violates Article 2, Section 16 of the Kansas Constitution.

SB 244 violates the single-subject and clear-title provisions of Article 2, Section 16 of the Kansas Constitution because it contains at least two different subjects that do not share any “legitimate connection to each other”: (1) the identification of a person’s “biological sex” at birth on their driver’s license and birth certificate and (2) the permissible usage of private spaces in public buildings. *Kansas One-Call Sys., Inc. v. State*, 294 Kan. 220, 226–28 (2012). The Section 16 violation appears on SB 244’s face: identification documents and sex-separated spaces in public buildings do not both relate to “one subject” clearly expressed in the title.

The AG resists this conclusion by contending that the “single subject” of SB 244 is the “identification of biological sex” AG Opp. at 26. He states that “[a]ll elements of SB 244 concern how the government classifies individuals on state issued documents and databases, and in state-owned facilities based on biological sex.” AG Opp. at 26. But SB 244 is far more than an exercise in classification. Designating a person as a particular sex in a database or on the face of a driver’s license is different from restricting access to private spaces under threat of civil and criminal penalties. In addition, SB 244’s provisions regulating public buildings and restroom access fall

outside of any “single subject” plausibly described as the mere “identification of biological sex.”

The AG also errs in relying on *Kansas One-Call System, Inc. v. State*, 294 Kan. 220, 228 (2012). That court explicitly found that the challenged provisions all related to “one grand and comprehensive subject” of “public utilities.” *Id.* at 228 (internal quotation marks omitted). Here, the only possible connection between the two challenged provisions is disfavoring transgender Kansans. But that is not a legitimate connection for Section 16. *See State v. Limon*, 280 Kan. 275, 295 (2005) (“...moral disapproval of a group cannot be a legitimate governmental interest.”).

Finally, the AG is wrong to contend that arguments about SB 244’s legislative process are “irrelevant” because Section 16 “does not impose a code of legislative procedure.” AG Opp. at 27. Section 16 is designed to “prevent legislative abuses.” *One-Call*, 294 Kan. at 226; *see State ex rel Stephan v. Thiessen*, 228 Kan. 136, 142–43 (1980) (listing several purposes of the single subject rule) (citing *Garten Enters., Inc. v. Kansas City*, 219 Kan. 620, 622, 549 P.2d 864, 867 (1976)). Nor does enactment “with a veto-proof supermajority,” AG Opp. at 27, insulate a law from charges of procedural irregularity. The law in *State v. Sholl* also passed all-but unanimously, and there was still a Section 16 violation based on the mismatch between the bill’s title (“to repeal or strike out certain redundant, obsolete and inoperative provisions”) and what the bill actually accomplished (abolishing broad swathes of the existing state laws). 49 P. 668, 668–69 (1897). Plaintiffs do not need to prove a backroom deal or improper bargain. *See Sholl*, 49 P. at 668–69 (assuming that legislators were deceived by the bill’s title); *Cashin v. State Highway Comm’n.*, 22 P.2d 939, 940–41 (Kan. 1933) (determining legislative intent by considering the act’s history). Courts can look to the bill’s text and history to detect an unconstitutional departure from Section 16’s requirements.

III. The Court Should Issue a Temporary Injunction.

Without citing any law, the AG contends relief should be limited only to the Restroom Ban

and License Restriction and to named Plaintiffs. AG Opp. at 32–34. This is incorrect for at least two reasons. First, Plaintiffs’ Section 16 claim challenges SB 244 *as a whole*. See Am. Pet. ¶236–241. Laws that violate Section 16 are generally invalid in their entirety. *Thiessen*, 228 Kan. at 144; *see also Cashin*, 137 Kan. at 744. The AG contends (citing no law) that “there is no irreparable harm connected to the single-subject rule” claim and “the violation of this provision does not affect [Plaintiffs’] individual rights.” AG Opp. at 34. But a Section 16 violation renders a statute void and unenforceable. *Kansas Nat’l Educ. Ass’n v. State*, 305 Kan. 739, 752 (2017); *Heinz v. Larimer*, 119 Kan. 861 (1925). Plaintiffs have a constitutional right not to be subject to SB 244, which is harming them. See *supra* Argument Section I.F.

Second, the Restroom Ban and License Restriction are invalid in all of their relevant applications. Kansas courts consider not “the entire universe of possible scenarios,” but rather “the circumstances actually affected by the challenged statute.” *State v. Ryce*, 303 Kan. 899, 915 (2016). “The proper focus of the constitutional inquiry is the group for whom the law is a restriction, not the group for whom the law is irrelevant.” *Id.* (Syllabus by the Court). This Court must look to the group of people SB 244 affects, i.e. transgender and intersex people. Because SB 244 violates their constitutional rights, a statewide injunction is proper. And Plaintiffs do not need to establish that every application of SB 244 will lead to violence, harassment, or discrimination. Whether or not those harms occur, SB 244 violates their constitutional rights, which is an irreparable injury. See *Trust Women Found. Inc. v. Bennett*, No. 121,693, 2022 WL 1597011, *7 (Kan. Ct. App. 2022).

The Court should, at a minimum, issue an injunction providing complete relief to the Plaintiffs such that (1) KDOR may re-issue Plaintiffs’ licenses and return them to the pre-SB 244 status quo and (2) Plaintiffs may resume using multiple occupancy restrooms consistent with their gender identity.

Respectfully submitted, this 4th day of September, 2026

By: /s/ Douglas R. Dalglish

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I certify that on September 4, 2026, the above and foregoing were electronically filed with the Clerk of the Court using the Court's Electronic Filing System, which will send notice of electronic filing to all counsel of record.

/s/ Douglas R. Dalglish

Douglas R. Dalglish, KS Bar 22328

Exhibit 1

IN THE SEVENTH JUDICIAL DISTRICT
DOUGLAS COUNTY DISTRICT COURT
CIVIL DEPARTMENT

DANIEL DOE, MATTHEW MOE, KYLE
KOE, NICHOLAS NOE, CAMERON
BROYLES, and DAKOTA WEST,

Plaintiffs,

vs. Case No. DG-2026-CV-000112

Div. No. 4

STATE OF KANSAS, ex rel KRIS
KOBACH, Attorney General; KANSAS
DEPARTMENT OF REVENUE; KANSAS
DIVISION OF VEHICLES, DEANN
WILLIAMS, Director of Vehicles, Department
of Revenue, in her official capacity; MARK
BURGHART, Secretary of Kansas Department
of Revenue, in his official capacity; KANSAS
DEPARTMENT OF ADMINISTRATION; and
ADAM PROFFITT, Secretary of Department of
Administration, in his official capacity,
Defendants.

VIDEO TELECONFERENCE

DEPOSITION OF: ALYSON MCGREGOR

DATE: Tuesday, June 23, 2026

TIME: 10:00 a.m.

TIME ENDED: 4:33 p.m.

LOCATION: Greenville, South Carolina

REPORTED BY: YVONNE R. THURSTON-BOHANNON
Registered Merit Reporter,
Certified Realtime Reporter

Page 34 1 use in any context? 2 A. No. 3 Q. Are you offering any opinions about 4 which facilities transgender or intersex people 5 should use when those facilities are separated 6 either by sex or gender? 7 A. No. 8 Q. Are you offering an opinion about what 9 driver's licenses should say as a matter of public 10 policy with respect to sex or gender? 11 A. No. 12 Q. Are you offering an opinion on any of 13 the potential public safety aspects of SB-244? 14 MR. NUSSBAUM: Object to form. 15 THE WITNESS: No. 16 BY MR. SELDIN: 17 Q. Are you offering an opinion about the 18 definition of sex that is used in SB-244? 19 A. I will say yes. 20 Q. And what is that opinion? 21 A. Could we -- if you want me to be 22 specific, could we bring it up and view it? 23 Q. Is it fair to say that in your opinion 24 the definition of SB-244's definition of sex, is 25 that contained in your report?	Page 36 1 I'm -- I'm looking at page three of 2 your CV under your "Professional Licensure and 3 Certifications." Are you there? 4 A. Yep. 5 Q. Are you associated -- or licensed to 6 practice medicine in Rhode Island and 7 Massachusetts; is that correct? 8 A. That's correct. 9 Q. Are you licensed to practice medicine 10 anywhere else? 11 A. South Carolina. 12 Q. And when did you become licensed in 13 South Carolina? 14 A. Thank you, because I didn't realize I 15 didn't -- I have to add that. I moved here 20 -- 16 so it was four years ago, so 2022 about. 17 Q. And other than in Rhode Island, 18 Massachusetts, and then South Carolina in about 19 2022, are you licensed to practice medicine in any 20 other state? 21 A. No. 22 Q. Have you ever previously been licensed 23 to practice medicine in another state but had that 24 license lapse or otherwise become inactive? 25 A. No.
Page 35 1 A. Yes. 2 Q. Okay. I promise you we will get there. 3 I just wanted to make sure there wasn't 4 something -- 5 A. Okay. 6 Q. -- separate from what was in your 7 report. 8 A. Okay. 9 Q. Have you reviewed any plaintiff medical 10 records in this case? 11 A. No. 12 Q. Have you been asked to review any 13 plaintiff medical records in this case? 14 A. No. 15 Q. Do you intend to review any plaintiff 16 medical records in this case? 17 A. No. 18 Q. And I want to talk a little bit about 19 your CV which we already marked as Exhibit 3. 20 Since it's been marked and you have it, I'm 21 inclined not to display it, but I will if you think 22 that is easier. Do you have a preference? 23 A. No, I can -- I can look at it if you 24 refer me to it. 25 Q. Great.	Page 37 1 Q. And just out of curiosity, when you get 2 licensed to practice medicine in a new state, do 3 you hit a certain point in experience where you 4 wave in or do you always have to sit for an exam? 5 A. The exam is not part of being licensed. 6 A different organizational body makes sure that my 7 cre -- that my board -- board certification is 8 up-to-date. So I have to work with American Board 9 of Emergency -- it's ABEM -- ABEM to make sure that 10 my board certification is up-to-date, and then when 11 I go to apply for a medical license in a different 12 state, they have to double check that I am -- that 13 I'm still maintaining my certification. 14 Q. Got it. Thank you. 15 A. Of course. 16 Q. What's your current role at the USC 17 School of Medicine in Greenville? 18 A. I am an emergency medicine physician. 19 So I still practice clinically, and I'm also -- 20 have an administrative position at the medical 21 school. I'm an associate dean of faculty affairs 22 and development. 23 Q. And roughly what's the split of your 24 time between clinical and administrative? 25 A. Roughly it's about 75/25. So 75

Page 38 1 administrative, 25 clinical. 2 Q. And so how often are you practicing 3 medicine then in the ER in your current role? 4 A. About four to five shifts per month. 5 Q. Okay. And is it the same emergency 6 department where all those shifts take place? 7 A. No. There's many emergency departments 8 here. I work at probably three to four different 9 ones. The hospital that I -- 95 percent of my 10 shifts are -- are at Prisma Memorial which is the 11 trauma center, Level I trauma center. 12 Q. And when you say major -- the Level I 13 major trauma center, what does that mean? 14 A. That means it has a des -- designation 15 of a Level I which means that there are services to 16 care for all specialties, conditions 24 hours a 17 day, seven days a week, so stroke, trauma. We have 18 access to all -- all specialties, all -- all day 19 and every day. 20 Q. So in layperson's terms, the helicopter 21 flies to you; you don't put people in a helicopter 22 to go somewhere else? 23 A. Exactly. We are the referral center 24 for the entire area. 25 Q. Got it.	Page 40 1 was to come and start an office that can help 2 support the 1300 clinical faculty that are 3 associated with our school and to make sure that 4 they're well developed and the faculty affairs, 5 just making sure they have their appointments with 6 the medical school. 7 So I'm -- I'm on that end of a medical 8 school being successful. 9 Q. Has your -- so you said that your split 10 in role was 25 percent clinical, 75 percent 11 administrative. Has that been true since 2022 when 12 you joined USC? 13 A. Yes. 14 Q. And prior to coming to USC, what was 15 your split between clinical and administrative 16 roles in Rhode Island? 17 A. Probably the opposite. 18 Q. Was that another change that you were 19 interested in making at that time? 20 A. Yes. 21 Q. Why? 22 A. Because working as an emergency 23 medicine physician without a circadian rhythm, you 24 don't go to bed at the same time. You may not go 25 to bed for a couple of days. You work weekends,
Page 39 1 And why did you -- where were you prior 2 to your role at USC? 3 A. I was at Brown. So I had that in my 4 academic appointment at Brown University Medical 5 School, and then my clinical at Brown Hospital 6 which is also a Level I trauma center. 7 Q. And why did you leave those positions 8 and go to University of South Carolina? 9 A. I was there for -- I trained at Rhode 10 Island Hospital and Brown and then stayed on for, 11 you know, 18 years or so. So COVID had happened 12 and there's always a time to sort of reevaluate, 13 and the dean at the medical school here was 14 actively trying to recruit me to come to start the 15 office of faculty affairs and development, and so I 16 took the change. 17 Q. And what was the new office that you 18 were asked to start? 19 A. So the medical school here was fairly 20 new. When I came, it was only about a decade old, 21 and so they really needed to develop the 22 relationship with the doctors that are teaching the 23 students, and -- and Prisma Health is the 24 healthcare system that solely sort of took over and 25 we're becoming an academic institution. So my role	Page 41 1 holidays. I had a good 20 years of -- of doing 2 that, and so this was an opportunity to, you know, 3 do something else and still find myself excited 4 about it. 5 Q. Dr. McGregor, on page four of your 6 CV -- 7 MR. NUSSBAUM: And, I'm sorry, Harper, 8 that's Exhibit 3? 9 MR. SELDIN: Yes. Yes, sorry, 10 Exhibit 3. 11 BY MR. SELDIN: 12 Q. And that's on page -- rather on page 13 four you have "Other Appointments" section and it 14 continues on to page five. And I'm looking four 15 down. It says, "2020 to present the LGBT Task 16 Force of the Academy for Diversity and Inclusion in 17 Society for Academic Emergency Medicine." 18 What is the LGBT Task Force? 19 A. So the Society for Academic Emergency 20 Medicine has -- what do they call them? They have 21 interest groups and I guess task force. They have 22 different, you know, places where people come 23 together with general interests in doing research. 24 So Society of Academic Medicine has been my 25 academic home where I meet lots of other emergency

Page 70 1 if you are talking about sex chromosomes and 2 biology and gonads that you use the term -- terms 3 "male" and "female," and if you are talking about a 4 social/cultural representation of self, then it's 5 "man" or "woman." 6 Q. For people who are intersex, do you 7 believe that there should be any medical limits on 8 their ability to identify as a man or a woman? 9 MR. NUSSBAUM: Object to form. 10 THE WITNESS: That is outside the scope 11 of my role for this -- for today. 12 BY MR. SELDIN: 13 Q. I understand. 14 In your opinion as a physician do you 15 believe that there should be a medical limit on 16 intersex individual's ability to identify as a man 17 or woman? 18 MR. NUSSBAUM: Objection. Asked and 19 answered. 20 THE WITNESS: That is more towards 21 policy and not clinical care or score in my area of 22 scientific expertise. 23 BY MR. SELDIN: 24 Q. So you don't have an opinion on whether 25 there's a certain configuration of chromosomes,	Page 72 1 with a uterus and ovaries)." 2 Did I read that correctly? 3 A. That's correct. 4 Q. Do you think organ inventories are 5 helpful for all patients? 6 A. Yes. Absolutely. And I will -- I'll 7 say depending on if it's relevant to the care -- 8 you know, the current care that they need in the 9 emergency department. 10 Q. Can you explain that? 11 A. So if someone had a rock fall on their 12 toe and, you know -- then I don't need a full organ 13 inventory. You know, I just need to x-ray the toe 14 and repair it or -- or work on that. So we're 15 very -- you know, it's a focused assessment. 16 Q. Dr. McGregor, if you could please go to 17 Exhibit 13 which is the invited editorial. If you 18 could please just let me know when you have it up. 19 A. I have it up. 20 Q. Okay. And I'm now looking at the 21 second page, two of two, very top of the first 22 column where it has your name. 23 A. Yep. 24 Q. And so it's -- you can see those three 25 names, McGregor, Greenberg, and Donnelly, and
Page 71 1 internal organs, external organs that an intersex 2 person could have that would, you know, be to 3 appropriate for them to identify as a man or woman? 4 You just don't have an opinion on that? 5 A. I do not. 6 MR. NUSSBAUM: Objection. 7 THE WITNESS: Sorry. 8 MR. NUSSBAUM: Objection to the form. 9 MR. SELDIN: Note the objection. 10 BY MR. SELDIN: 11 Q. What's your answer, Dr. McGregor? 12 A. I do not. 13 Q. Looking now at page 60, so the same 14 page, but I'm now on the second column where it 15 says "Organ Inventory." Let me know when you're 16 there. 17 A. I'm there. 18 Q. Okay. In that second sentence which is 19 four or fives lines down, it says, "Additionally, 20 this organ inventory." Do you see that? 21 A. I do. 22 Q. It says, "Additionally, this organ 23 inventory may alter the diagnostic testing we do as 24 emergency medicine physicians (e.g., a pregnancy 25 test -- pregnancy test on a transmasculine person	Page 73 1 you're the first one. Do you see that? 2 A. I do. 3 Q. In the context of this editorial, does 4 the order of the authors have any meaning? 5 A. I would say it's about the same as -- 6 as -- I don't know -- I don't remember the -- in 7 general I would say yes, what I said before was -- 8 would hold true. 9 Q. And so since you're the first author, 10 that would mean you did the most work on this? 11 A. Presumably. 12 Q. And then as -- since Elizabeth 13 Donnelley is the last author, she would be more the 14 senior author of this editorial? 15 A. It's -- it's -- that's grasping I think 16 on such a small editorial like this. 17 Q. Do you recall whether you specifically 18 were asked to write this editorial or if it was the 19 group of you? 20 A. I -- I don't recall. 21 Q. Dr. McGregor, if you could please -- 22 well, actually I'm going to show you a document. 23 Bear with me. 24 I'm showing a document that has been 25 previously marked as Exhibit 14 which I will mark

Page 82 1 incident rate for procedure X? 2 MR. NUSSBAUM: Objection. 3 THE WITNESS: Well, I -- 4 MR. NUSSBAUM: Form. 5 THE WITNESS: -- I would say that 6 there's consequences of not performing procedure X 7 that are -- you know, that need to be taken into 8 account. 9 BY MR. SELDIN: 10 Q. So -- 11 A. So it's like the colonoscopy. Yeah, if 12 we never did a colonoscopy, then the risk 13 associated with colonoscopy would be zero, but what 14 are the risks associated with not doing the 15 colonoscopy. 16 Q. So you would agree then that you would 17 need to look at both sides of the ledger, both 18 what's the complication rate and then also what 19 happens if you don't have the procedure available? 20 A. Yes. 21 Q. You talk in your declaration about the 22 benefits of having a driver's license marker that 23 indicates sex as you define it as biological sex. 24 Is that fair to say that that's part of your 25 report?	Page 84 1 A. I am not providing an opinion. 2 Q. I'm going to go back to your CV. I am 3 on page -- which is Exhibit 3 for those of you 4 following along at home. If you could go to page 5 22, please. 6 A. I'm there. 7 Q. And I'm looking at "Published Case 8 Reports," middle of the page. Do you see that? 9 A. Uh-huh. 10 Q. Are -- it looks like you've got 13 of 11 them. It continues on to the second page. 12 My question is, Are any of these about 13 patients who are transgender or intersex? 14 A. I would say I -- that's impossible to 15 know because if I'm taking care of someone with 16 gingival hyperplasia, I may not have known whether 17 they were intersex or -- you know, those -- those 18 types of demographics. 19 Q. So -- so it sounds like it's possible 20 that some of these patients were transgender and 21 inter -- or intersex, but you didn't know; is that 22 fair to say? 23 A. Yes. 24 Q. For these patients are there any of 25 them where you specifically knew that they were
Page 83 1 A. Yes. 2 Q. Does your declaration talk about the 3 consequences or potential negative impacts of 4 having a marker on a driver's license that reflects 5 biological sex as opposed to something else? 6 A. No. 7 Q. Do you believe that the potential 8 negative consequences are relevant to evaluating 9 that overall policy? 10 A. I was asked to determine what clinical 11 significance would be achieved by having the marker 12 of sex on the license. 13 Q. I understand that. My question is 14 still, Do you believe that it's also important to 15 look at the negative potential consequences of that 16 clin -- on having that marker appear as you 17 suggest? 18 MR. NUSSBAUM: Objection. Asked and 19 answered. 20 THE WITNESS: I would say sure. 21 BY MR. SELDIN: 22 Q. Are you providing an opinion about the 23 potential negative consequences of having a sex 24 marker on a driver's license that reflects 25 biological sex as you define it?	Page 85 1 transgender or intersex? 2 A. I cannot tell just by reading what's 3 listed on my CV. 4 Q. Do you have any recollection as we sit 5 here today about whether any of these patients were 6 transgender or intersex? 7 A. I do not. 8 Q. Okay. Looking now at page 30 of your 9 CV, if you could turn there, please. Let me know 10 when you have arrived. I apologize. I'm on page 11 34 of your CV. 12 A. Okay. 13 Q. You see number 31, "2018, Society of 14 Academic Emergency Medicine. Oral didactic." Can 15 you let me know when you're there? 16 A. I'm there. 17 Q. Okay. And so it says, 2018, Society of 18 Academic Emergency Medicine. Oral didactic LGBTQ 19 in the ED: Comprehensive Care of Sexual Minority 20 and Gender Non-Conforming Patients in the Acute 21 Care Setting. Indianapolis, Indiana, May 16th." 22 Did I read that correctly? 23 A. Yes. 24 Q. And earlier we were discussing an oral 25 didactic that was part of your work on the LGBT

Page 94 1 percent, you know, of that every year if you look 2 at the -- the whole spectrum. And by that I would 3 also reiterate that I may not always know I'm 4 taking care of a transgender unless it's related to 5 the care. 6 Q. I'm sorry, I'm going to shut this door. 7 I apologize. 8 And so other than using general 9 population estimates, do you have any other way 10 that you might approximate how many transgender 11 patients you treated knowingly or unknowingly in 12 your career? 13 A. No. 14 Q. Do you have any specific recollections 15 of instances where you treated patients who you 16 knew were transgender? 17 A. I do have one patient in mind because I 18 used it as a teaching case for the resident. 19 Q. And what was that case? 20 A. I'm sorry, I'm chewing my cough drop. 21 We were in the trauma bay, and a 22 patient came in in a motor vehicle accident, and so 23 it was a bad enough accident to be in the trauma 24 bay. And I was reviewing the orders that were 25 placed in by the resident, and I noticed that on	Page 96 1 Q. And so what ER were you in? 2 A. I was in Rhode Island Hospital 3 emergency department. 4 Q. And you -- I think you said it was 5 clear to you that this person was a transgender 6 man. What did you mean by that? 7 A. Well, sometimes it's something that 8 visually you can -- you can, you know, see. So I 9 can't really remember why I thought or -- or if it 10 was documented anywhere. I don't really recall. I 11 just remember thinking this was a great case to 12 teach the importance of get -- obtaining an organ 13 inventory. 14 Q. And you say you don't recall 15 specifically what it was, but sometimes there's 16 visual cues. What visual cues do you use to 17 determine whether someone might be a transgender 18 man? 19 A. I can't say that there are specific 20 ones. And it could have even been a conversation 21 that I had with him and -- 22 Q. Do you have a general sense of physical 23 characteristics or constellation of physical 24 characteristics that might lead you to believe 25 someone is a transgender man?
Page 95 1 all of our trauma patients that are female we 2 obtain a pregnancy test because that's important 3 for us to know for obvious reasons to take care of 4 the patient, and then also when you're involved in 5 a trauma, there's a lot of radiation, x-rays, CAT 6 scans, things like that. 7 And I noticed that the resident didn't 8 order one on this patient, and the patient was 9 listed -- so I -- I asked the resident why he 10 didn't, and he said that the patient was a man. 11 And it was clear to me that the patient was a 12 transgendered man. 13 So I said, "Well, did you do an organ 14 inventory?" And -- and that was a teaching moment. 15 So then the resident went and did an 16 organ inventory and found out that this 17 transgendered male had a hysterectomy, among 18 other -- you know, breast removal and other such 19 things. So -- so we had a discussion about that, 20 that being an important time where we need to do 21 the organ inventory so that we can take the best 22 care of the patient. 23 Q. And you -- when -- when was this case? 24 A. At least -- I would say at least ten 25 years ago.	Page 97 1 MR. NUSSBAUM: Object to form. 2 THE WITNESS: Well, I mean, part of our 3 role in the emergency department is pattern 4 recognition and understanding what those patterns 5 might -- might -- might predict. So I don't recall 6 how I discovered that it was a transgender male. 7 BY MR. SELDIN: 8 Q. Do you recall whether it was a driver's 9 license? 10 A. I do not recall. 11 Q. Do you recall whether it was the 12 medical health -- the electronic health record? 13 A. I don't recall. 14 Q. Is it possible that it's because the 15 patient told you that they were a transgender man? 16 A. It's possible. 17 Q. Imagine that I'm a resident and you're 18 trying to teach me the pattern recognition to 19 figure out that someone might be a transgender man 20 or a transgender woman. What -- what would you 21 tell me? 22 MR. NUSSBAUM: Object to form. 23 THE WITNESS: I don't think there's 24 any -- there is -- there is not a teaching of that. 25 I think when we -- when we talk about pattern

Page 98 1 recognition, it's how do males present with 2 cardiovascular -- you know, a heart attack, how do 3 females present, how do -- the communication styles 4 of men versus women, and different things like 5 that, but I don't think there's ever been a 6 discussion on what it might -- you know, what -- 7 making that assumption or not assumption based on 8 how someone looks. 9 BY MR. SELDIN: 10 Q. And as it turned out, the person who 11 was the subject of this teaching case had had a 12 hysterectomy, so they didn't have a uterus, so 13 there's not a chance of pregnancy; is that fair to 14 say? 15 A. Yes. 16 Q. So was there any negative patient care 17 consequence to this woman's failure to discern that 18 she was a transgender male or -- transgender man? 19 A. Not that I recall for this case. 20 Q. I think when you started describing 21 this case, you described it as a female who came 22 into the ER as a result of a motor vehicle 23 accident. Was there a particular reason that you 24 used those words? 25 A. I don't think I used those words.	Page 100 1 A. That's correct. 2 MR. NUSSBAUM: Object to form. 3 BY MR. SELDIN: 4 Q. And what was your answer, Dr. McGregor? 5 MR. NUSSBAUM: And same objection. 6 THE WITNESS: That's correct. 7 BY MR. SELDIN: 8 Q. Is there anyone in your personal life 9 who is transgender? 10 MR. NUSSBAUM: Object to form. 11 THE WITNESS: I don't see how that's 12 relevant. 13 BY MR. SELDIN: 14 Q. I understand. I'm still going to ask. 15 Is there anyone in your personal life 16 who is transgender? 17 MR. NUSSBAUM: Object to form. 18 THE WITNESS: And so if I don't think 19 it's relevant, that -- that's -- that's -- isn't 20 that the answer? 21 BY MR. SELDIN: 22 Q. It's not. It's not. Your counsel will 23 be very clear when he instructs you not to answer. 24 This is not one of those circumstances. 25 So the question is, Is there anyone in
Page 99 1 Q. How would you -- maybe I misheard. How 2 would you then describe the start of that case? 3 A. That a transgendered male -- actually I 4 should say transgendered man presented after a 5 motor vehicle crash. 6 Q. Were there any other teachable moments 7 from that patient case that you recall? 8 A. Not that I recall. 9 Q. So other than that motor vehicle 10 accident approximately ten years ago in Rhode 11 Island that you used as a teaching case, do you 12 have any other specific recollection of transgender 13 patients that you have treated? 14 A. No. 15 Q. Do you have any specific recollections 16 of treating patients where delayed disclosure of 17 being transgender impeded patient care? 18 A. I don't recall. 19 Q. Okay. We were talking earlier about -- 20 I think you mentioned the example of someone comes 21 in and their toe got crushed and so maybe you don't 22 need an organ inventory for that since it's clear 23 what happened. Is it fair to say there are plenty 24 of ER cases where whether someone is transgender or 25 not is not relevant to their treatment?	Page 101 1 your personal life who is transgender? 2 MR. NUSSBAUM: So -- 3 THE WITNESS: So the answer is no. 4 MR. NUSSBAUM: Go ahead. 5 Object to form. 6 THE WITNESS: No. 7 BY MR. SELDIN: 8 Q. Is there anyone in your professional 9 life who is transgender? 10 MR. NUSSBAUM: Object to form. 11 THE WITNESS: I would say yes. 12 BY MR. SELDIN: 13 Q. Who in your professional life do you 14 know that is transgender? 15 MR. NUSSBAUM: Object to form. 16 THE WITNESS: An emergency medicine 17 physician. 18 BY MR. SELDIN: 19 Q. Just one or more than one? 20 MR. NUSSBAUM: Object to form. 21 THE WITNESS: I would say one. That's 22 the only one that comes to mind at this point. 23 BY MR. SELDIN: 24 Q. Other than that single ER doctor, is 25 there anyone else in your professional life that

Page 138 1 physician, I am board certified as such. That 2 would not be something that I would be able to 3 tease out while I'm caring for my patients. 4 BY MR. SELDIN: 5 Q. Do you think in the instance of -- it 6 sounds like you think you need to weigh the whole 7 picture to come to an understanding of whether 8 someone's intersex conditions are a variation of 9 male or a variation of female. Do you believe 10 gender identity has any role in weighing that out? 11 A. I think the gender identity is a 12 self-expression, a self-identification of their -- 13 their self, and then if -- it's an expression of 14 certain characteristics outwardly. So I would 15 consider those distinct but related. We cannot 16 really tease out sex and gender completely because 17 they are interrelated. 18 Q. How are sex and gender interrelated? 19 A. When someone has an outward expression 20 of gender, a gender identity, that imparts certain 21 social/cultural expectations in society, and that 22 can put them at different risks of different 23 things. Over time those social/cultural variables 24 can alter DNA through the concept of epigenetics. 25 So they are related in a very complex way that we	Page 140 1 Q. And so for purposes of drug metabolism 2 for individuals who are intersex or have 3 differences of sex development, are there other 4 aspects of their what you call biological sex that 5 other than chromosomes that would factor into how 6 drugs metabolize in the body? 7 A. Yes, there are sex steroid hormone 8 levels. We know that both have an affect on drug 9 metabolism, pharmacokinetics and pharmacodynamics, 10 but at this point we don't understand exactly how 11 much of a role each one has. 12 Q. And how would -- how would we 13 understand this literature about how drugs work in 14 the body with respect to transgender individuals? 15 MR. NUSSBAUM: Object to form. 16 THE WITNESS: If we look at a 17 transgender individual and we are considering that 18 their biological sex is either male or female, then 19 we could use our understanding of drug metabolism 20 in a male or female up and to the point that they 21 take exogenous hormones -- and we don't really know 22 at this point in time how that will affect 23 specifically the metabolism of medication. 24 BY MR. SELDIN: 25 Q. And is that true in the same way that
Page 139 1 are, you know, still studying. 2 Q. Does gender identity have a biological 3 component? 4 A. As I mentioned, they are distinct but 5 interrelated. So I understand there's a 6 biologic -- there's literature out there to 7 discuss -- that sort of looks at the etiology of 8 gender identity expression, but I'm not aware of 9 it -- of the specifics. 10 Q. Are you intending to offer an opinion 11 in this case about the etiology of gender identity? 12 A. No. 13 Q. I'm on page six now of your 14 declaration, the section that starts "How Drugs 15 Work in the Body." 16 For individuals who are intersex how -- 17 how should we understand the differences in how 18 drugs work in the body? 19 A. We know that chromosomal complements, 20 or sex chromosomes, affect how drugs work in the 21 body. I am unaware of any studies that have looked 22 at drug metabolism in an intersex individual. This 23 body of literature is growing and growing, and we 24 are still trying to understand what role sex 25 chromosomes have in drug metabolism.	Page 141 1 you might not be sure for an intersex individual 2 because of their hormone -- you need to know their 3 hormonal milieu to try to assess that? 4 A. Yes. 5 Q. Okay. In this section we were talking 6 about how drugs work in the body. It seems that 7 you're talking about a general literature. When 8 you're applying this literature to a specific 9 patient, how do you integrate individual patient 10 responses to drugs into this literature? 11 A. I -- because I know a lot of this 12 literature, I -- it's -- I can incorporate a lot of 13 this into my care of patients. But the broad 14 strokes that we're able to do because the FDA has 15 only very limited number of drugs with sex-specific 16 dosing differences, outside of that there is some 17 generalities that normally drug concentrations in 18 women are -- take longer to metabolize, not -- not 19 across the board, but in general, and females have 20 higher adverse drug reactions. 21 So those are some generalities that I 22 can -- I can take to the bedside. 23 Q. And when you're at the bedside with 24 those generalities and broad strokes, I assume at 25 the end of the day you're treating the individual

Page 142 1 patient regardless of the broad strokes? 2 A. Yes. Of course. 3 Q. So, you know, you've given an example 4 of propofol, which is -- is that a sedative? 5 A. It's a hypnotic. So it's for moderate 6 sedation, moderate to severe sedation. 7 Q. Is that -- is that what my dentist 8 calls awake sedation? 9 A. No. You'll be pretty -- well, I guess 10 it depends on how much is used. So, yeah, you want 11 them to -- if you're doing a moderate sedation, 12 then they should be breathing on their own. 13 Q. And so in the case where you're 14 providing propofol to a patient, I assume you never 15 say, "Well, I've given you enough for your 16 biological sex, so I'm not going to give you any 17 more," right? You would actually look to see if 18 the patient was sedated in the way that you wanted. 19 Is that fair to say? 20 A. That's -- that's fair to say. I think 21 it helps to anticipate as much as possible. That's 22 what we do in the emergency department is be able 23 to anticipate how much we draw up, what our 24 expected, you know, needs will be for this patient, 25 what our expected adverse reactions might be. So	Page 144 1 testosterone levels? 2 MR. NUSSBAUM: Object to form. 3 THE WITNESS: There is some literature 4 in the pharmacology world that shows that when a 5 transgender individual takes exogenous hormones 6 that their creatinine clearance of the drug after 7 taking it for six months changes to that of the 8 gender that they're affirming into. 9 So these studies are fairly new, and 10 they're just sort of the -- so the groundbreaking 11 has changed and we should look at this throughout 12 the board so that we can have more precise dosing 13 and -- and the pharmacist can assist us with that. 14 So that's I think where we're headed in 15 understanding, but there's only a few research 16 publishers out there. 17 BY MR. SELDIN: 18 Q. Do you think this is important research 19 to continue in this field? 20 A. Yes. 21 Q. Why? 22 A. Because we're moving toward a more 23 precision-based care model. I think that our 24 understanding of health and disease has been based 25 on a very limited pool, and so now that we have a
Page 143 1 all of that factors into caring for the patient. 2 Q. And for medications -- are there any 3 medications where the science about how to 4 metabolize in the body could be more closely linked 5 to hormonal milieu than chromosomes? 6 A. I think it's fair to say that there is 7 some literature which will show an association 8 between a hormone presence or a level and the 9 pharmacokinetics or pharmacodynamics of a drug. 10 But to say that's just in isolation and that the 11 chromosomes don't have -- have also a role I would 12 say it's -- we're not that specific yet. 13 Q. If you can envision that you are in the 14 emergency department and you are looking at a 15 reference range for a drug where you believe that 16 there is this sex link to either chromosomes or 17 hormonal milieu, for a transgender person who is 18 taking testosterone is it a range -- has a range of 19 testosterone associated with folks who are assigned 20 as male at birth, what reference range would be the 21 most helpful for that individual for the drug? 22 A. That is un -- unknown. 23 Q. Would it be reasonable for a clinician 24 to consider the male reference range for that drug 25 taking into account that individual patient's	Page 145 1 much more complex understanding, complex models, 2 mathematical models, computation, our science is 3 just evolving, that we can get more complex and 4 more precise. 5 Q. You talk in your report in various 6 places about precision medicine. Is it your 7 opinion that precision medicine would be good for 8 everybody? 9 MR. NUSSBAUM: Object to form. 10 THE WITNESS: I do not have an opinion 11 on that. 12 BY MR. SELDIN: 13 Q. Is there any group of people for whom 14 you think precision medicine is not important? 15 MR. NUSSBAUM: Object to form. 16 THE WITNESS: I do not have an opinion. 17 BY MR. SELDIN: 18 Q. And when you say you don't have an 19 opinion, do you mean this case or at all? 20 MR. NUSSBAUM: Object to form. 21 THE WITNESS: I don't have an opinion 22 in this case or at all. 23 BY MR. SELDIN: 24 Q. If you could turn to page nine of your 25 report, please, and I'm looking at that middle

Page 154 1 A. I'm there. 2 Q. You say, "Where I would frame this 3 differently from the Petition: the inference that 4 intersex variations show that sex itself is 5 non-binary deserves more careful framing. The 6 medical and developmental biology literature 7 describe -- describes a sexually dimorphic 8 developmental pathway: a developmental pathway 9 that, in most cases, produces one of two 10 predominant phenotype configurations. Intersex 11 variations are best understood as departures from 12 that pathway. They are variations from a dimorphic 13 process; they are not, in themselves, evidence that 14 the underlying process is non-binary." 15 Did I read that correctly? 16 A. Yes. 17 Q. And in your lay book "Sex Matters," I 18 think one of the themes that I gleaned from that is 19 that a failure in medicine was that for a long time 20 it viewed females as just men with -- I think the 21 words you used were "boobs and tubes" and failed to 22 consider that, in fact, female was distinct from 23 male and separate and not sort of a derivative 24 offshoot. Is that a fair summary of that portion 25 of your book?	Page 156 1 A. Yes. 2 Q. For purposes of a driver's license in 3 the same way that you posit that there's clinical 4 value to having a sex marker, do you believe that 5 there's also clinical value to having a gender 6 marker on the license? 7 A. I believe that is my commenting on a 8 policy, and so I -- I -- I don't have an opinion 9 about that. 10 Q. Do you think that the -- so you do have 11 an opinion that generally speaking gender identity 12 is relevant for clinicians to know, but you do not 13 have an opinion as to whether the presence of that 14 marker on a driver's license is helpful in a 15 clinical sense; is that true? 16 A. That's true. 17 Q. And -- but it is your opinion that sex 18 on a driver's license does have clinical value to a 19 clinician; is that your opinion? 20 A. Yes. 21 Q. And that's because you believe it has 22 value in a clinical setting? 23 A. Yes. 24 Q. In your opinion are patient preferences 25 relevant when making diagnostic or treatment
Page 155 1 A. I wouldn't say derivative offshoot. I 2 think what I would say is males were used a proxy 3 for health for both males and females and for -- 4 for all concepts of health indices outside the 5 reproductive organs. 6 Q. And my understanding of the thesis of 7 your book is that -- and your work is that it's -- 8 that's not the case; it's much more complicated 9 than that? 10 A. That's correct. 11 Q. Do you think there's a -- within your 12 field, a reasonable view that intersex variations 13 could be understood as a natural occurring variant 14 as opposed to a -- some sort of failure to follow a 15 distinct dimorphic path? 16 A. To me those are pretty -- those are the 17 same thing. 18 Q. You don't -- I'm sorry, go ahead. 19 A. No, that was it. 20 Q. We've been talking today about 21 precision medicine and this idea that information 22 about what you call biologic sex has clinical 23 relevance. We've also talked, though, about how 24 gender identity can have clinical relevance in some 25 ways. Is that fair to say?	Page 157 1 decisions? 2 MR. NUSSBAUM: Object to form. 3 THE WITNESS: Is that outside the scope 4 of my role here? 5 BY MR. SELDIN: 6 Q. I'm asking you this question which is, 7 Are patient preferences relevant when making 8 diagnostic or treatment decisions? 9 MR. NUSSBAUM: Object to form. 10 THE WITNESS: Many times, yes. 11 BY MR. SELDIN: 12 Q. Is patient preferences and values part 13 of the informed consent process? 14 A. We use the term "informed consent" when 15 referring to research studies on human subjects. 16 Q. Do you use the concept of informed 17 consent in the emergency department? 18 A. I guess I didn't think of it that way, 19 but if I were to do a procedure, I would want 20 consent from the patient if -- unless it was an 21 emergent condition and then I had to do my best 22 judgment. 23 Q. Let's take the unresponsive patient 24 with no healthcare proxy sort of out of this for 25 the moment, but for someone you're having a

Page 190 1 including -- so I'm looking at the PDF numbers on 2 the side. 3 Q. I think you were on seven. 4 A. Okay. 5 Okay. Please bring me there. 6 Q. You want eight. It's the second 7 from -- 8 A. Eight. 9 Q. Sorry. 10 A. Okay. Page eight. 11 Q. All right. And then it starts with a 12 bunch of italicized text, and then there's 13 non-italicized text, "Section 5. K.S.A. 2025 Supp. 14 28,137." Are you with me? 15 A. Now I'm with you. 16 Q. Okay. And we'll see in (b)(3) there's 17 a line that strikes out the gender. Do you see 18 that? 19 A. I do. 20 Q. And the stricken language says, 21 " 'Gender' means the psychological, behavioral, and 22 social -- social and cultural aspects of being male 23 or female." 24 Did I read that correctly? 25 A. Yes.	Page 192 1 hormones, gonads, and nonambiguous internal and 2 external genitalia present at birth," and then 3 there's stricken language. 4 But stopping there, do you agree with 5 that definition of sex? 6 A. I think that there's -- it's within 7 part of the realm of what we would consider 8 definition of sex right now. It's not fully 9 inclusive, but what it -- what it says I agree 10 with. I just think it's not as inclusive of 11 nonreproductive causes of where biological sex has 12 meaning. 13 Q. So what would you add to this 14 definition to make it more accurate from your 15 perspective? 16 A. I would just rephrase it to say -- it 17 makes it seem like the context of re -- 18 reproductive potential or capacity including such, 19 such, such-and-such. So to me that's wrapping up 20 under reproductive potential or capacity, but if we 21 could just say, in the context of reproductive 22 potential or capacity, as well as sex chromosomes 23 that are in every cell in the body, not just in the 24 reproductive organs, naturally occurring sex 25 hormones, gonads and internal, external -- you
Page 191 1 Q. Do you agree with that definition of 2 gender? 3 A. Well, they use the terms "male or 4 female." And so if we try to keep that clear and 5 reserve those for sex. 6 Q. And so would you consider this accurate 7 if it says, " 'Gender' means the psychological, 8 behavioral and social and cultural aspects of being 9 a man or a woman"? 10 A. Yes. 11 Q. Okay. Other than that, is there 12 anything else in that definition that you would 13 disagree with? 14 A. No. 15 Q. Was that a no? 16 A. That was a no. 17 Q. Okay. And then if you'll scroll down 18 to eight in this list of definitions, you'll see it 19 says, " 'Sex' means." Will you let me know when 20 you're there. 21 A. I'm there. 22 Q. And it says, " 'Sex' means the 23 biological indication of male and female in the 24 context of reproductive potential or capacity, 25 including sex chromosomes, naturally occurring sex	Page 193 1 know, I think that would go on to the reproductive, 2 but... 3 Q. And, Dr. McGregor, did you review this 4 section of SB-244 to write your report? 5 A. I did not. 6 Q. Dr. McGregor, if you would go to 7 Exhibit 6 which we talked about earlier. Let me 8 know when you've got it. 9 A. I've got it. 10 Q. And I'll represent to you that this is 11 SB-180 which is another law in Kansas. If you go 12 to the second of page of this document, it says, 13 "Senate Bill Number 180" at the top. If you'll let 14 me know when you're there. 15 A. I'm there. 16 Q. If you go to section one and then 17 (a)(1), it says -- actually, I'm sorry, if you go 18 to (a)(2), it says, "a 'female' is an individual 19 whose biological reproductive system is developed 20 to produce ova, and a 'male' is an individual whose 21 biological reproductive system is developed to 22 fertilize the ova of a female." 23 Did I read that correctly? 24 A. Yes. 25 Q. Do you agree with that definition of

Page 194 1 male and female? 2 A. I -- I don't disagree with it. I think 3 it's -- it's accurate but limited. That's 4 consistent with what I've said about male and 5 female and biological sex. 6 Q. And what -- what would need to be 7 included in these definitions to make them fully 8 accurate in your opinion? 9 A. Well, it's -- it's not implying that 10 there's sex chromosomes in the heart, in the brain, 11 in the lung that are also responding to the 12 hormonal milieu, estrogen and progesterone. So 13 it's -- you know, I think it's -- it's -- it's 14 consistent. It's not inconsistent. It's just 15 not -- not fully baked. 16 Q. So consistent but -- consistent but 17 incomplete would be a fair way to characterize 18 these definitions of male and female in your 19 opinion? 20 A. Yes. 21 MR. NUSSBAUM: Object to form. 22 THE WITNESS: Sorry. 23 Yes. 24 BY MR. SELDIN: 25 Q. So you'll see in (3) below that it	Page 196 1 accurate. 2 BY MR. SELDIN: 3 Q. Using these definitions of male and 4 female, how would you characterize transgender men 5 and women? 6 MR. NUSSBAUM: Object to form. 7 THE WITNESS: I'm not -- I'm not 8 completely sure what -- what you're asking. 9 BY MR. SELDIN: 10 Q. Sure. 11 So in your opinion -- you know, we've 12 talked about I believe it's important to 13 distinguish when you're saying male and female 14 versus when you're saying men and women. Is that 15 fair? 16 A. Yes. 17 Q. So would it be -- assuming that that is 18 consistently applied, would you agree that 19 individuals who have a sex assignment at birth of 20 female but who have a male gender identity we think 21 of as transgender men they could be properly 22 characterized as men? 23 MR. NUSSBAUM: Object to form. 24 THE WITNESS: That -- that is the -- 25 that is the current understanding.
Page 195 1 says, "the terms 'woman' and 'girl' refer to human 2 females, and the terms 'man' and 'boy' refer to 3 human males." 4 Did I read that correctly? 5 A. Yes. 6 Q. Do you agree with that definition? 7 MR. NUSSBAUM: Object to form. 8 THE WITNESS: I think, again, it's -- 9 in -- in a scientific world we say -- I think 10 it's -- it's not inaccurate, but it is limited. 11 BY MR. SELDIN: 12 Q. In what way is it limited? 13 A. Because you could use the term "woman" 14 in someone who has outward or inner self that's -- 15 that's defining them as their gender as a woman or 16 they want an expression of -- outwardly of female 17 characteristics. 18 Q. We talked earlier -- we've been talking 19 throughout the day about your concerns about 20 collapsing what you call biological sex and gender 21 identity into a single category. Does this 22 definition of woman and girl and man and boy 23 collapse sex and gender identity together? 24 MR. NUSSBAUM: Object to form. 25 THE WITNESS: I would say that's	Page 197 1 BY MR. SELDIN: 2 Q. Do you agree with that current 3 understanding? 4 MR. NUSSBAUM: Object to form. 5 THE WITNESS: I don't have an opinion. 6 I don't agree or disagree. I'm just stating 7 what -- what's generally considered appropriate 8 terminology. 9 BY MR. SELDIN: 10 Q. How do you think intersex people should 11 be classified using these definitions of male and 12 female? 13 MR. NUSSBAUM: Object to form to the 14 extent it calls for a legal conclusion. 15 BY MR. SELDIN: 16 Q. You can answer. 17 A. I think the issue with that is it -- 18 it's -- they don't -- it's unknown really. I think 19 when we're not sure because they were a variation 20 from XX and XY, then they are categorized as 21 intersex. That is the term that we use to 22 categorize them, not male or female, but intersex. 23 Q. Dr. McGregor, if you could please open 24 what we previously marked as Exhibit 7. Let me 25 know when you have it.

Page 198 1 A. It's up. 2 Q. Okay. I'll represent to you that this 3 was a prior policy that KDOR had with respect to 4 gender reclassification for driver's licenses. If 5 you go to the middle of the page, it says on number 6 three, "A letter from your licensed medical." Do 7 you see where I am? 8 A. Yes. 9 Q. It says, "A letter from your licensed 10 medical, osteopathic physician stating you have 11 undergone the appropriate clinical treatment for 12 change of gender, or that the physician determined 13 that gender reclassification based on physical 14 criteria is appropriate." 15 And then it says, "At this time, 16 letters from therapists, psychiatrists, and 17 psychologists cannot be accepted." 18 Did I read that correctly? 19 A. Yes. 20 Q. Do you have an opinion as to whether 21 this is a good policy for gender or sex markers on 22 driver's licenses? 23 MR. NUSSBAUM: Object to form. 24 THE WITNESS: I do -- I do not have an 25 opinion.	Page 200 1 Is that fair? 2 A. Yes. 3 Q. Would you agree that there is medical 4 treatment available in the form of gender-affirming 5 medical care that can change someone's hormonal 6 milieu to be the same as that of their gender 7 identity? 8 MR. NUSSBAUM: Object to form. 9 THE WITNESS: Yes, as far as we 10 understand in science and literature. 11 BY MR. SELDIN: 12 Q. With the best available evidence? 13 A. Yes. 14 MR. NUSSBAUM: Object to form. 15 THE WITNESS: Right. 16 BY MR. SELDIN: 17 Q. With respect to secondary sex 18 characteristics, would you agree that there are 19 available hormonal and certainly treatments that 20 can similarly make a transgender person's body 21 congruent with their gender identity? 22 MR. NUSSBAUM: Object to form. 23 THE WITNESS: I -- I believe that that 24 is the -- the point. I mean, that's the goal for 25 them, and so to the extent that surgery and
Page 199 1 BY MR. SELDIN: 2 Q. We've been -- earlier today we were 3 talking about gender-affirming medical care. We 4 talked about both hormonal and surgical components 5 of that care. Do you recall us having that 6 conversation? 7 A. Not specifically -- not the specifics. 8 Q. Generally are you familiar with 9 gender-affirming medical care for transgender 10 individuals as having both hormonal and surgical 11 components depending on the individual's 12 preferences? 13 A. I -- I would say, yes, I have a general 14 understanding of that. 15 Q. Okay. And what is your understanding 16 of the degree to which those interventions changed 17 secondary sex characteristics? 18 MR. NUSSBAUM: Object to form. 19 THE WITNESS: What -- just ask the 20 question again. 21 BY MR. SELDIN: 22 Q. Sure. 23 We've been talking today about the 24 various components of what you called biological 25 sex. One of them, for example, is hormonal milieu.	Page 201 1 hormones can do that, I think, you know, is 2 variable and individual, but that's -- that's my 3 understanding of why they would undergo such 4 things. 5 BY MR. SELDIN: 6 Q. And so thinking about then -- I'll 7 stipulate that we don't have gene therapy for sex 8 chromosomes. I would assume you would agree with 9 that? 10 A. As far as I know. 11 Q. That's -- that's the scary thing, as 12 far as we know. 13 So with keeping in mind that chrom -- 14 sex chromosomes are not changing, do you believe it 15 is possible that an individual who is transgender 16 could have changed sufficiently the various aspects 17 of what you call biological sex such that it would 18 be more accurate to describe their sex as congruent 19 with their gender identity as opposed to their sex 20 assigned at birth? 21 MR. NUSSBAUM: Object to form. 22 THE WITNESS: That would require 23 science to say that by changing the hormones the 24 hormones means more than the genes and DNA and 25 qualifying sex. So that's not something that is a

Exhibit 2

2024 Mar 18 AM 9:29

CLERK OF THE SHAWNEE COUNTY DISTRICT COURT

CASE NUMBER: SN-2023-CV-000422

PII COMPLIANT

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION THREE
STATE OF KANSAS

STATE OF KANSAS, ex rel. KRIS KOBACH,)
Attorney General,)
Petitioner,)
vs.) CASE NO:
2023-CV-422
DAVID HARPER, Director of Vehicles,)
Department of Revenue, in his official)
Capacity, and MARK BURGHART, Secretary of)
Revenue, in his official capacity,)
Respondents.)

TRANSCRIPTOFMOTION HEARING

Proceedings had before the HONORABLE TERESA L.
WATSON, JUDGE, THIRD DIVISION, at Topeka, Kansas, on
the 10th day of January, 2024.

KOBACH_000050

APPEARANCES

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I N D E X

On Behalf of the State:

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>
Kent Michael Selk	92	130	160
Brian Hill	165	171	175
		171	
Richard Newson	176	184	195

On Behalf of the Respondent KDOR:

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
James Oehm	202	209	215	
		212		

On Behalf of the Respondent Intervenor:

Adam Kellogg	219	246	253	254
Kathryn Janelle Redman	255	278		

For the State:

<u>Exhibits:</u>	<u>Offered</u>	<u>Admitted</u>
No. 5	122	
No. 7	98	98
No. 12	124	
No. 17	97	97

For the Respondent KDOR:

<u>Exhibits:</u>	<u>Offered</u>	<u>Admitted</u>
No. 108	218	218
No. 109	218	218
No. 110	129	129
No. 111	129	129

1 your first witness.

2 MR. SKEPNEK: Thank you, Your Honor.

3 MR. KOBACH: -- Your Honor, the State will
4 call Kent Selk from the Kansas Department of Revenue.

5 THE COURT: Sir, please come forward and be
6 sworn by the court reporter.

7 KENT MICHAEL SELK,

8 called as a witness on behalf of the Petitioner, was
9 sworn, and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. KOBACH:

12 Q. Good morning, Mr. Selk. Could you please state your
13 full name for the Court?

14 A. Yes. My name is Kent Michael Selk.

15 Q. And Mr. Selk, what is your current job and title?

16 A. Current job title is Driver Services Manager for the
17 state of Kansas, which is running the driver's
18 license operation across the state for all driver's
19 license offices and everything that involves issuing
20 the credential and the staff there.

21 Q. And when you refer to the credential are you
22 referring to the actual physical license itself?

23 A. Correct, sir.

24 Q. How long have you held that position at -- I'll just
25 refer to it as KDOR?

1 A. This current position over all the driver's license
2 offices, about the past five years.

3 I was also the federal compliance manager for
4 commercial drivers licensing. Started that in
5 December of 2012 until I transitioned into this
6 position about 2018.

7 And I don't know if you care, but I worked 10
8 years prior to that as a tax collector for the Kansas
9 Department of Revenue. So I've been in state service
10 for 20 years.

11 Q. Okay, thank you.

12 The -- what are your principle duties in your
13 current role which appears to be a senior management
14 role?

15 A. Ensuring that the driver's license offices are up and
16 operating correctly on a day to day operation. Much
17 as you know like with right now with inclement
18 weather, closing for certain periods of time.
19 Ensuring that -- management of the staff. All the
20 equipment in the office is working correctly.
21 Working with those vendors. Working with state IT.
22 Also the issuing systems.

23 There's a lot more moving parts there than just
24 walking in there. So there's our state system.
25 There's also our vendors that do facial recognition

1 that match the driver's license that you get into
2 your pockets. All the payments. Money that we
3 collect and submit.

4 I'm also tasked with making sure that I testify,
5 part of the statutes that go around driver's license
6 issues and how they -- stick with the standards and
7 with compliance with Federal Motor Carrier Safety
8 Administration as it occurs with commercial drivers
9 licensing. And also the federal standards as it is
10 applied to Real ID Act and your Real ID that you've
11 been issued.

12 Q. Did you respond to the interrogatories that were
13 served on KDOR in this litigation?

14 A. Yes.

15 Q. When issuing a driver's license to an out of state
16 transfer to Kansas or to a first time credential --
17 issuing a first time credential to a Kansas resident,
18 what documents does KDOR rely upon to determine a
19 person's sex as displayed on the face of the driver's
20 license where it says sex?

21 A. We rely on their state-issued birth certificate and
22 one other statement. It has to be certified. It
23 cannot be a photocopy or something that's not an
24 actual certified document of that. And/or we can
25 utilize individuals' valid U.S. passport.

1 Those are the two documents that we utilize as
2 determinations of their sex, if that's what your
3 question --

4 Q. In the case of a first time driver's license, first
5 time learner's permit being issued to a resident aged
6 18 or younger, is the -- what is the document that
7 KDOR most often relies upon to determine the person's
8 sex?

9 A. If I had to do a percentage, it's going to be mostly
10 your birth certificate. Most of those individuals
11 don't always have passports at that age.

12 Q. Prior to the commencement of this lawsuit, in July of
13 2023, did KDOR allow Kansas ID card or Kansas
14 driver's license holder to change the sex marker on
15 that card or driver's license?

16 A. They did.

17 Q. And did KDOR have a written policy outlining the
18 process to change the sex marker on a Kansas ID card
19 or driver's license?

20 A. We did.

21 Q. And when was that policy adopted?

22 A. Prior to my being at KDOR. I do believe it was in
23 the 2007 range, if I'm historically correct. I could
24 be wrong there, but I believe so.

25 Q. Mr. Selk, I'm going to hand you a document.

1 MR. KOBACH: Your Honor, does the Court
2 already have the exhibits?

3 THE COURT: I do.

4 MR. KOBACH: Okay.

5 A. Thank you, sir.

6 BY MR. KOBACH:

7 Q. Thank you. Mr. Selk, you see that this is listed as
8 Exhibit 17 at the bottom. This would be Petitioner's
9 Exhibit 17. And it states at the top Gender
10 Reclassification Policy. Does that look familiar to
11 you?

12 A. Yes, sir.

13 Q. Can you describe what this is?

14 A. This is our policy for an individual to submit to
15 change their -- the gender or sex on the driver's
16 license.

17 Q. And can you see the date listed down in the lower
18 left corner here?

19 A. Yes, sir.

20 Q. What is that date?

21 A. It is March 22nd -- or March, yes, 22nd, of 2019.
22 Sorry.

23 Q. Is that the date on which this policy took effect?

24 A. I do believe this is just a revision of the actual
25 form. We go through and revise the forms and make

1 sure that they're grammatically correct and that the
2 PO boxes aren't needing to be changed.

3 But this would be the standard that it was prior to
4 my --

5 MR. KOBACH: Your Honor, I move for the
6 admission of Exhibit 17 into evidence.

7 THE COURT: Any objection?

8 MR. SMITH: No, Your Honor, not from
9 Respondent KDOR. I would also note that this is
10 Exhibit 110 for our purposes.

11 MR. DALGLEISH: No objection, Your Honor.

12 THE COURT: Thank you.

13 Petitioner's 17 is admitted.

14 BY MR. KOBACH:

15 Q. And, Mr. Selk, I'll just show you a second document,
16 it's Exhibit 7.

17 A. Thank you.

18 Q. Mr. Selk, if you look at this one is it says right
19 below the heading, it says, "Method for Gender
20 Reclassification Based on Court Order." And then
21 there's a date of May 10, 2011.

22 Have you ever seen this document before?

23 A. I have.

24 Q. And what is this document?

25 A. This would be a court order form for an individual to

1 change their gender as it requires; the driver's
2 license.

3 Q. Did this document describe the policy of KDOR in this
4 regard from roughly 2011 to 2019?

5 A. It does.

6 MR. KOBACH: Your Honor, I move for the
7 admission of Exhibit 7 into evidence as well.

8 THE COURT: Any objection?

9 MR. SMITH: No, Your Honor. For our
10 purposes that's also KDOR Exhibit 108.

11 MR. DALGLEISH: No objection, Your Honor.

12 THE COURT: All right.

13 Petitioner's 7 is admitted.

14 BY MR. KOBACH:

15 Q. Mr. Selk, let's look at the Exhibit 7, the 2011 memo.

16 A. Okay.

17 Q. Pursuant to that memorandum, what did KDOR require
18 from an applicant in order for the applicant to
19 achieve a change in the sex marker on his driver's
20 license card?

21 A. The information needs to come from an actual
22 physician. The physicians are laid out on this
23 application at the bottom, on number three. So if
24 you're looking at Exhibit 17 --

25 Q. I'm actually looking at Exhibit 7 right now. The

1 2011 policy.

2 A. Okay. It's also the same. So it has to come from a
3 certified physician that's listed on there. Sex
4 cannot just be changed or gender cannot just be
5 changed by anybody at any point in time. It needs to
6 be submitted to what's considered our central office
7 to review the documents that are actually coming from
8 the physician. And that the physician is telling us
9 that the individual's gone through enough of this
10 process that they are -- should have a gender
11 reclassification.

12 Q. So under the 2011 policy, did KDOR require more than
13 the applicant's mere assertion or statement that
14 their new gender identity differed from the sex that
15 a doctor observed at the time of their birth and then
16 was reported on their birth certificate?

17 A. The individuals themselves cannot assert that. It
18 would have to come from the physician. If that's
19 what question is, sir?

20 Q. Right.

21 A. Correct, sir.

22 Q. And the -- would the simple production of medical
23 records from that physician be sufficient to justify
24 the change under the 2011 policy?

25 A. Yes, if they were a certified medical examiner.

1 replacement?

2 A. Correct.

3 Q. If fact it's sort of been built into your system that
4 names can change?

5 A. Yes.

6 Q. That addresses can change?

7 A. Yes.

8 Q. All right. And so in the role of a driver's license
9 what do you think the primary role is?

10 A. Primary role is to give accurate information of the
11 individual at the most current time that we have it,
12 depending, obviously, you know, with the difference
13 of the renewal cycles. Four years is for an
14 individual above the age of 65. Six years is for an
15 individual as below the age of 65. So anything from
16 -- 15 years olds obviously are going to have to come
17 in because their license changes when they turn 21.
18 But they're six year licenses. The other thing that
19 we're changing is a CDL is five years, it's not the
20 standard six.

21 Q. The data fields are always changing?

22 A. Yes.

23 Q. And that includes potential for a gender change on
24 the credential?

25 A. Correct.

1 of the credential, but that it can be backed up and
2 validated, say, by a law enforcement officer
3 accessing the data base?

4 A. Correct.

5 Q. So in this case, really the only things that don't
6 change are really the driver's license number.
7 That's pretty consistent transaction over
8 transaction?

9 A. Correct. Unless there's a reason why they would need
10 to change it for identity theft issues or protection
11 issues, things of that nature.

12 Q. Or domestic abusers?

13 A. Yes. That's going towards protection, yeah.

14 Q. So even though the information regarding gender may
15 change on the credential, you still have that solid
16 unchangeable K number that's going to apply to pretty
17 much 99.9 percent of the cases?

18 A. Correct. And just so you know, even if we do have to
19 update the individual's K number, their previous K
20 number and all their history of their record is
21 merged with that newer K number. So nothing is lost.
22 Their information goes on.

23 Q. So even in the small percentage of cases where there
24 is a change, you still have a whole history following
25 along?

1 A. Correct.

2 Q. With regard to the central office policy procedure is
3 it -- in your experience in dealing with these more
4 complicated discretionary functions on your part, is
5 it helpful for that work to be performed at the
6 central office?

7 A. Yes.

8 Q. And why is that?

9 A. Well, for a few reasons. One, it's a complicated
10 transaction to have at a window. Okay. In a lot of
11 driver's license offices, especially some of them
12 that are not as big as the other ones, you're not
13 very far away from the individual that is having
14 another transaction right next to you. We try to be
15 sensitive to some of the situations that can arise.

16 Also, it's not for the driver's license examiner
17 to figure out at their station. They have enough to
18 do and enough to accomplish. The complicated
19 situations are to result back with our office and
20 then they are notified out of receipt from there.

21 Q. And is one of your goals as a manager, for any kind
22 of state function, is to make sure that it's done
23 consistently and uniformly across the state?

24 A. Yes.

25 Q. And without a policy is there a risk that there would

Exhibit 3

IN THE SEVENTH JUDICIAL DISTRICT
DOUGLAS COUNTY DISTRICT COURT
CIVIL DEPARTMENT

DANIEL DOE, MATTHEW MOE, KYLE
KOE, NICHOLAS NOE, CAMERON
BROYLES, and DAKOTA WEST,

Plaintiffs,

v.

STATE OF KANSAS, ex rel KRIS
KOBACH, Attorney General; KANSAS
DEPARTMENT OF REVENUE, KANSAS
DIVISION OF VEHICLES; DEANN
WILLIAMS, Director of Vehicles, Department
of Revenue, in her official capacity; MARK
BURGHART, Secretary of Kansas Department
of Revenue, in his official capacity; KANSAS
DEPARTMENT OF ADMINISTRATION; and
ADAM PROFFITT, Secretary of Department
of Administration, in his official capacity,

Defendants,

* * * * *

DEPOSITION OF DR. JAMES CANTOR,
called for deposition by Plaintiffs, by and
through counsel, pursuant to K.S.A. 60-230, taken
before me, the undersigned, Kristy Fulton, CAT
Stenographic Reporter and Commissioner of Oaths
(Ontario) on Friday, June 26, 2026,
At 10:09 a.m. EDT

* * * * *

Page 34 1 and the one that's pertinent is specific to the 2 context or the research or the evidence that's 3 under investigation. Whether these or how closely 4 these various concepts are linked to each other 5 depends on those particular concepts. 6 So to ask if there's one that I 7 accept is to assume that there -- that it is the 8 correct construct that we're talking about in the 9 first place, and now it gets to homosexuality, for 10 which we do have, you know, very specific and 11 objective -- excuse me, for which we do have very 12 specific and objective evidence. We don't have an 13 equivalent for gender identity. 14 MR. LECKERMAN: 15 Q. What about for transsexuality? 16 Is there a definition that you believe is 17 appropriate for that term? 18 A. When the term "transsexuality" 19 was used most, which was roughly to the early 20 2000s, the term was usually, almost always, used 21 for somebody who had completed a medical 22 transition process. So if a person was called a 23 transsexual, they were a person born as one sex, 24 did everything they could to medically transition 25 and live their lives as the other sex and now is	Page 36 1 short time ago. 2 A. Yes. 3 Q. Okay. What is the objective 4 criteria that you're referring to? 5 A. The procedure itself -- did I 6 use the word "criteria." I don't remember if I 7 used the word "criteria," but -- 8 Q. Maybe objective evidence of 9 homosexuality. I think that's what you might have 10 said, sorry. 11 A. That -- that -- that would 12 make sense. Criteria, I would tend to use with a 13 diagnosis, and of course that -- which doesn't 14 apply now to homosexuality. 15 The objective evidence would be, 16 you know, if we're doing a research study, we 17 found various physical components, primarily of 18 the -- of the brain and other what we call minor 19 physical anomalies, things that happen during in 20 utero or development that most people wouldn't 21 notice, but they give us clues to what's going on 22 during those periods of development. 23 The direct measure would be what we 24 call phallometry. It's probably one of the most 25 transparent tests in all of mental health. A
Page 35 1 living as a transsexual. 2 The term wasn't applied to a -- on 3 the basis of self-identity, and it wasn't assigned 4 on the basis of intending or hoping to go through 5 the process, and it wasn't used often, or wasn't 6 used regularly, on people who only wanted elements 7 or weren't sure which parts of medical transition 8 they wanted. 9 So because the idea was more 10 uniform, the definitions were more uniform, the 11 research articles were more uniform, and the 12 literature was more uniform. So it was easier to 13 come up with a definition. Since the advent of 14 social media, terms are introduced and come into 15 everyday use by people who are not transsexual, by 16 journalists, by the public, by activists with no 17 basis, or very little basis, in science at all. 18 So whether those even count as 19 definitions is itself a question. So comparing 20 words like "transsexual" are not easily comparable 21 to the "use whatever word is most popular today" 22 tradition. 23 Q. So you referred earlier to 24 objective criteria for determining homosexuality. 25 Do you remember that testimony? It was just a	Page 37 1 person is -- wears what's essentially an erection 2 detector, a small cuff around the penis that 3 measures changes in either circumference or 4 volume, and we show the person different types of 5 stimulus, males -- males, females, couples and so 6 on, and we measure the person's response to the 7 various stimuli. 8 And of course the people who 9 respond predominantly to the same sex are 10 classified as homosexual. We still use a 11 technical word. And the ones who respond to the 12 opposite sex, heterosexual. We have no such 13 equivalent for gender identity. 14 Q. So have you ever used -- have 15 you ever used that test to diagnose somebody as 16 being homosexual? 17 REF MR. NUSSBAUM: Object to form. 18 THE DEPONENT: For diagnosis? No. 19 There -- there no longer is such a diagnosis. The 20 number of people who come in with a -- asking 21 whether they're gay or not, very, very rare. 22 Usually, we would see it when, 23 again, there's a question, and it's the legal 24 system, either a court or a parole and probation 25 for a case of somebody who's committed a crime,

Page 134 1 determining how accurate cisgender women are when 2 distinguishing between a trans man and a cisgender 3 man? 4 A. Again, it depends on the 5 circumstance. If a -- if in a shower, for 6 example, the physical appearance of genitals -- 7 the phalloplasty is the surgery to create -- try 8 to create an artificial penis is not very 9 esthetically successful. It -- again, it's easily 10 observed, so -- it's easily observed. 11 Because the surgeries are 12 complicated and not often very successful, only a 13 small proportion of female-to-male trans people go 14 through it. Most of them will still have their 15 original female genitalia. 16 So if they're in an environment 17 like a shower, again, it's obvious. If it's in an 18 environment with only closed -- C-L-O-S-E-D -- 19 closed stalls and the person is clothed when 20 apparent, it's harder to pick out a female-to-male 21 transsexual. 22 Because their voices are deeper, 23 they tend to grow in, you know, the range of 24 typical facial hair. So they would just appear to 25 be a short male, maybe a slender -- maybe a	Page 136 1 had. 2 So the data are usually used to 3 obscure the data that we have about the biological 4 males, but the biological females have not, that I 5 recall, themselves been the object of study. I 6 would have to check my notes to be sure, but there 7 hasn't been -- it hasn't been the focus of 8 attention nearly as much as the biological males 9 have been. 10 Oh, and the other part I should 11 say, and the other, you know, cisgendered males 12 who are in the environment are not in as much 13 danger. They're much more rarely targeted for any 14 kind of harassment or voyeurism or exhibitionism 15 and so on. And they're physically larger and have 16 a feeling of being able to defend themselves in a 17 way that biological females don't. 18 Q. I would like to show you a new 19 exhibit. That will be Exhibit 3. 20 EXHIBIT NO. 3: Document entitled 21 "A Bill of Transsexual Rights" 22 MR. LECKERMAN: And why don't we 23 scroll through this document when Dr. Cantor is 24 ready. 25 MR. NUSSBAUM: Is there a way to
Page 135 1 slender one. People tend not to notice, you know, 2 changes in profile, you know, curvy hips and so 3 on. 4 So it actually is harder in many 5 circumstances to identify who might be a 6 biological female in a male environment, unless 7 maybe somebody just said, "Here's a group of, you 8 know, ten people; pick out which one you think is 9 trans." That would probably be above average, but 10 if one isn't expecting or looking for, it's not -- 11 not as obvious or not as dramatic a distinction as 12 the male-to-female transition is. 13 Q. Do you have an opinion as to 14 why -- well, strike that. 15 Do you see any elevated risks with 16 trans men using men's bathrooms? 17 A. No. I -- none of the studies 18 have -- none of the studies have focused on the 19 female-to-male trans people. What has happened is 20 because the biological females are so much less 21 likely to commit any kind of an antisocial 22 offense, very many authors do what I described. 23 They collapsed together the biological males and 24 biological females, which diluted the effect that 25 the biological males in the female environment	Page 137 1 blow it up? It's a little small on my screen. 2 THE DEPONENT: If it's helpful, I 3 found that when you're moving the cursor over that 4 part of the screen, you will see the magnifying 5 glasses with the plus and the minus, or you can do 6 -- so you can adjust your own, or at least I was 7 seeing it before. There it is, yes. 8 Yes, I see it. 9 MR. LECKERMAN: 10 Q. Why don't we just scroll 11 through it so you can let us know if you recognize 12 this document that we've marked as Cantor Exhibit 13 3. 14 A. I can change the size, but I 15 can't scroll from here. Perfect, thank you. 16 Good, yes. 17 Q. Dr. Cantor, do you recognize 18 this document? 19 A. Yes. Without checking it 20 verbatim, this looks like a blog post that I 21 posted now several years ago. 22 Q. And if we go back to the first 23 page, we will see that it's titled "A Bill of 24 Transsexual Rights." Do you see that? 25 A. Yes, I do.

Page 138 1 Q. And do you recall drafting 2 this? 3 A. Yes, I do. 4 Q. Did you collaborate with 5 anyone on drafting it? 6 A. Not directly, but of course, 7 you know, my views themselves have formed over the 8 course of many conversations with many different 9 people with many points of view. 10 Q. But the direct input into this 11 was only yours; correct? 12 A. The direct authorship of it? 13 Yes. 14 Q. What prompted you to write 15 this? 16 A. There were a lot of 17 discussions at the time as my other example, as in 18 with Alberta where -- which -- "delisted" was the 19 phrase, which delisted medical transition as one 20 of the insured benefits in their healthcare 21 system. Ontario was going through a very similar 22 debate at that time. 23 And so when, you know -- again, the 24 science was being misapplied, misinterpreted and 25 misrepresented in a lot of those public	Page 140 1 Q. But do you still believe that 2 these rights are appropriate for transsexuals? 3 A. It depends on what one means 4 by transsexual/transgender slash -- and all the 5 other terms. It's because these are -- you know, 6 parts overlap. Parts are different. So sometime 7 -- in some contexts, including the one I wrote 8 this in, it meant specifically people with a 9 former -- a formal diagnosis, which included the 10 gatekeeping procedure. 11 But that doesn't apply to now all 12 of the people who -- who were excluded by the 13 gatekeeping procedure. The whole procedure was 14 meant to separate these two groups exactly because 15 of the outcomes we anticipated they would undergo. 16 So I still believe this or endorse 17 it in the same way within that gatekeeping 18 process. If the gatekeeping process came back, 19 then I don't think there's a word of this I would 20 change. But within the informed consent process, 21 we're not talking about the same people. We don't 22 -- we don't even use the same terms for them. 23 Q. So when you state "formal 24 diagnosis," formal diagnosis of what? 25 A. Well, this would -- the DSM of
Page 139 1 discussions, and as a relatively well-known 2 researcher in my area who had the actual facts and 3 figures available in order for people to make 4 reasonable decisions, I shared them. 5 Now, this particular document I 6 wrote, as I say, in order to enumerate my specific 7 thoughts so that the various debates that were 8 going on at the time, you know, had a more full 9 representation of what I thought and why and how. 10 And as a matter of fact, this 11 document is probably one of the larger examples of 12 some of the things that have changed between then 13 and now, right down to the word "transsexual," 14 which version of the WPATH guidelines were in 15 effect, and what the implications are of having -- 16 of -- or benefits, I should say, of using the gate 17 care -- gatekeeping procedure at the time. 18 Now, they were using informed 19 consent rather than people who have actually been 20 properly assessed. All of a sudden, these aren't 21 rights. You know, these become privileges that 22 people, you know, feel that they're entitled to 23 upon say-so. So the circumstances that were in -- 24 in effect or being used then have been removed. 25 It's not as relevant in the now-popular model.	Page 141 1 the time, which was the DSM-IV and IV-TR criteria, 2 the diagnosis then was called gender identity 3 disorder. 4 Q. And what was gender identity 5 disorder? 6 A. Well, now, it's called gender 7 dysphoria. Much of the diagnostic language is 8 similar. What's changed is a lot of the language, 9 the -- the commentary that's given for how to 10 interpret the terms in the diagnostic criteria. 11 That changed from DSM-IV to the DSM-IV-TR, changed 12 again to the DSM-5, changed again to the DSM-5-TR. 13 Concurrently, or in parallel, the 14 WPATH criteria active at the time went from the 15 gatekeeping procedure for exactly how to decide 16 which people with a diagnosis should versus not -- 17 well, can versus should not continue with a 18 medical transition. 19 But with the diagnostic criteria 20 having changed and with the process for 21 determining who meets those criteria, how 22 confident we are that they meet those criteria, 23 now the -- that bar has changed so much, we can't 24 have nearly the same confidence in the conclusion 25 now that we did then.

Page 142 1 But nothing changed on my part. No 2 ideological shift, no political shift. The -- the 3 evidence itself even hasn't shifted. But what was 4 being used is now being applied to a very, very 5 different population for whom we do not have the 6 evidence. But if the procedure switched back to 7 before, then this is just as apt as it ever was. 8 As I say, there's been no change in my own views 9 or -- there's been no change in my own views. 10 Q. So what criteria would one 11 have to satisfy in order for you to say that this 12 bill of transsexual rights applies to that person? 13 A. It would certainly apply if 14 everything pertinent in the actual clinical 15 standards and the actual clinical -- clinical 16 procedures returned to those that were in Version 17 6, you know, given additional details with, you 18 know, other relevant information that is -- that 19 we didn't have then or a set of evidence that 20 establishes the reliability and the validity of 21 whatever new criteria are used. 22 I did not say and I do not say, and 23 no one should say, that the current criteria -- 24 that we have evidence that the current criteria 25 are a failure. The problem is that we're using	Page 144 1 procedure as working. But we have no such 2 evidence. All we have is we're now providing 3 these services to people who were excluded in the 4 research that led to all of this. 5 Q. So I'm a little confused, and 6 I just want to understand this better. I thought, 7 originally, you said that the diagnosis for which 8 these rights apply was for gender identity 9 disorder under the then-existing DSM, which I 10 think was IV at the time. Did I get that right? 11 A. Yes. That's -- that portion 12 of it is true, but it's incomplete without the 13 other criteria that are used by that clinic, 14 which, as I say, the -- the WPATH criteria at the 15 time were the minimum minimums, but most clinics 16 used higher minimums than that. 17 Q. So it's the WPATH-6 and the 18 DSM-IV that were the criteria that you would use 19 in order to determine whether or not this bill of 20 transsexual rights applies to a person? 21 A. Not exactly. 22 Q. Okay. 23 A. The part that's important, at 24 least to me, is what the science says. What's in 25 the DSM and what's in WPATH's standards is based
Page 143 1 criteria that are entirely untested. We have no 2 idea. Do they work? Do they not work? In what 3 ways, you know, what -- what side effects or 4 unintended effects are more likely now than 5 before? 6 It is an unknown, which is, of 7 course, not sufficient for establishing any public 8 policy. If, however -- theoretically, it's 9 possible -- somebody is actually able to 10 demonstrate that the informed consent model 11 produces results comparable to the gatekeeping 12 model, okay. Then we're done. Then we can use 13 that model. 14 But that's not what's going on. 15 We're instead applying -- using the procedures 16 that we use for only a very select subgroup of 17 people and now applying it to all of the other 18 people that that very same procedure said were not 19 qualified. That -- that's -- that is against 20 every scientific and clinical principle we have, 21 but still leaves open, as we do always in science, 22 we don't know what the future is going to be. 23 The evidence may change. If 24 somebody provides evidence demonstrating that the 25 new procedure works, okay. Then we can treat that	Page 145 1 on the science, and I can ask do call out whenever 2 they misrepresent or are missing something that 3 was in the science. 4 But it's a group of people, you 5 know, interpreting, you know, many of which are, 6 you know, colleagues of mine -- interpreting the 7 basis of the science in order to produce, you 8 know, either of these documents. When something 9 new happens in the science or somebody gets the 10 science wrong, it's the science that's correct, 11 not these documents. 12 So in order to engage in 13 evidence-based medicine, one must apply the 14 evidence, not what a committee says the evidence 15 is, which just adds a layer of that committee's 16 own bias. So nothing in my -- in what I wrote in 17 my blog is dependent on those intermediary -- what 18 another committee says. I'm going by the evidence 19 itself. 20 If -- when the evidence changes, we 21 need to change the documents to come up -- to keep 22 up with them, not vice versa. So there's nothing 23 to be gained, from my point of view, by following 24 somebody else's interpretation rather than 25 providing my own based on the original evidence

Exhibit 4

IN THE SEVENTH JUDICIAL DISTRICT COURT
DOUGLAS COUNTY, KANSAS

DANIEL DOE, MATTHEW)
MOE, KYLE KOE, NICHOLAS)
NOE, CAMERON BOYLES and)
DAKOTA WEST,)

Plaintiffs,)

v.) No. G2026-CV-00012

STATE OF KANSAS, ex)
rel. KRIS KOBACH,)
Attorney General,)
KANSAS DEPARTMENT OF)
REVENUE, KANSAS)
DIVISION OF VEHICLES,)
DEANN WILLIAMS,)
Director of Vehicles,)
Department of Revenue,)
in her official)
capacity, MARK)
BURGHART, Secretary of)
Kansas Department of)
Revenue, in his)
official capacity,)
KANSAS DEPARTMENT OF)
ADMINISTRATION; and)
ADAM PROFFIT, Secretary)
of Department of)
Administration in his)
official capacity,)

Defendants.)

DEPOSITION OF SHERIFF BRIAN HILL, a
Witness, taken on behalf of the Plaintiffs
before Jane A. Blackerby, CSR #1369, CCR #877,
pursuant to Notice on the 1st day of July, 2026,
at the Office of the Attorney General, 120 SW
10th Avenue, Topeka, Kansas.

Brian Hill; July 1, 2026

1 A. Yes. 09:23:01	1 the contacts are automotive related and vehicle 09:25:38
2 Q. Any problems you can ever recall, based 09:23:03	2 stops, so you got to have a valid license to 09:25:40
3 upon the sex marker on an out of state driver's 09:23:07	3 even operate that vehicle. You look at that 09:25:43
4 license? 09:23:11	4 driver's license. Part of the process is 09:25:47
5 A. I personally haven't encountered any 09:23:11	5 running people for warrants, and so if you're 09:25:51
6 issue. 09:23:14	6 going to issue a citation you need to know 09:25:56
7 Q. Do you know anything about how the 09:23:14	7 that's really the person you're giving the 09:25:59
8 federal government handles or deals with sex 09:23:15	8 ticket to. 09:26:01
9 markers on official government documents for 09:23:19	9 Q. And when you're given a license, a 09:26:02
10 transgender citizens? 09:23:23	10 driver's license, is it -- what is your process 09:26:04
11 A. No, sir. 09:23:25	11 if, let's say, the photo on the driver's license 09:26:11
12 Q. Have you occasionally had people give 09:23:25	12 doesn't look anything like the person you're 09:26:15
13 you federal ID documents? 09:23:28	13 talking to? 09:26:17
14 A. I don't recall, other than maybe a work 09:23:31	14 A. Well, you would be suspicious of that 09:26:18
15 document where somebody worked for a federal 09:23:39	15 and try to investigate further. I don't know 09:26:25
16 agency, but no. 09:23:41	16 that I have ever got a license that was totally 09:26:27
17 Q. Ever had anybody give you a passport as 09:23:42	17 different. I mean, people gain and lose weight 09:26:32
18 identification? 09:23:45	18 at times, but for the most part it looks like 09:26:34
19 A. I personally have not, no. 09:23:45	19 the person on the driver's license. 09:26:39
20 Q. Do you know whether the -- before 09:23:57	20 Q. Okay. From a law enforcement 09:26:40
21 SB-244 whether the policy in Kansas has been 09:24:02	21 perspective is it important to you, do you -- do 09:26:43
22 consistent or changed with regards to the sex 09:24:06	22 you want to have the driver's license depict 09:26:48
23 marker on driver's license? 09:24:09	23 information that's as current as possible now or 09:26:53
24 A. I don't have any specific knowledge on 09:24:11	24 at some other time? 09:26:58
25 that. 09:24:16	25 A. Well, I think it ought to be as current 09:26:59
Page 26	Page 28
1 Q. Okay. And do you have any 09:24:17	1 as possible as now. Like if you change 09:27:04
2 understanding of what, if any, changes SB-244 09:24:18	2 addresses you're required to do the address 09:27:06
3 has effectuated? 09:24:23	3 change and things like that. 09:27:09
4 A. It's my understanding that they 09:24:24	4 Q. And similarly, with regard to -- I 09:27:11
5 re-issued licenses to people that they had let 09:24:31	5 can't remember what all IS on it. Height and 09:27:17
6 change sex on them is the only thing that I had 09:24:36	6 weight, would you want -- would you want that to 09:27:20
7 heard about that. 09:24:40	7 be -- would it be more important to have that be 09:27:23
8 Q. Have you in your law enforcement 09:24:41	8 accurate now or at sometime in the past? 09:27:25
9 experience after the passage of SB-244 09:24:43	9 A. Well, what you look like right now 09:27:28
10 encountered any problems with citizens having to 09:24:47	10 would be more helpful for us, if all that was 09:27:31
11 change their driver's license? 09:24:51	11 accurate and correct. 09:27:34
12 A. I have not. 09:24:53	12 Q. Okay. And what is the -- if you know 09:27:36
13 Q. When you were -- when you stop or are 09:24:57	13 or have an understanding, what is the purpose of 09:27:38
14 investigating somebody, do you, as a law 09:25:02	14 having people update their driver's licenses 09:27:40
15 enforcement practice, do you typically require 09:25:07	15 periodically? 09:27:45
16 that they give you identification? 09:25:09	16 A. You know, I don't know that I have 09:27:46
17 A. Well, yeah. We always try to identify 09:25:11	17 thought about that in detail as a legal 09:27:52
18 who we're talking to, whether or not you have a 09:25:16	18 question, but I mean, at some point in time make 09:27:55
19 legal right to require that if they're a suspect 09:25:18	19 sure you're compliant with Kansas laws, and 09:28:00
20 in something, yes. 09:25:22	20 yeah. 09:28:06
21 Q. And so when you -- when you are 09:25:22	21 Q. I mean, I have to go every couple of 09:28:07
22 presented a driver's license by somebody that 09:25:26	22 years to review my license, and at that time -- 09:28:09
23 you're interviewing, what is the purpose? Why 09:25:29	23 A. Right. 09:28:11
24 are you looking at that driver's license? 09:25:33	24 Q. -- I'll update my address and height 09:28:12
25 A. Well, depending on the stop. A lot of 09:25:35	25 and weight, and from a law enforcement 09:28:16
Page 27	Page 29

Brian Hill; July 1, 2026

1 assigned male at birth, are you saying from a 09:38:48	1 been committed. True? 09:41:26
2 law enforcement perspective it always has to be 09:38:51	2 A. Yeah. I mean, we encounter people all 09:41:28
3 male, or are you saying, well, it might depend 09:38:54	3 the time. They could be a witness in something. 09:41:31
4 on whether they have -- what the status of 09:38:56	4 Q. Well, that's where I was going. 09:41:33
5 their, what their transgender status is or could 09:39:00	5 A. Yeah. 09:41:35
6 be other things that weigh into that. 09:39:03	6 Q. Is if you -- let's say you're looking 09:41:35
7 MR. RODRIGUEZ: I will object to 09:39:06	7 for a person that's lost or a runaway or 09:41:37
8 form. Sorry. You can answer. 09:39:06	8 something. Is identification important in that 09:41:44
9 Q. (By Mr. Dalgleish) Go ahead. 09:39:09	9 situation as well? 09:41:48
10 A. Okay. My concern is honestly just 09:39:10	10 A. Yes. 09:41:49
11 knowing who I'm talking to and tracking criminal 09:39:12	11 Q. Okay. And in that situation, let's 09:41:50
12 history across whatever you're doing. I don't 09:39:16	12 take example of a runaway, would you -- would it 09:41:53
13 run the jail, but it does determine where people 09:39:18	13 be more important to know their current physical 09:41:57
14 are housed, how they're booked in. A whole 09:39:22	14 appearance as opposed to what they were assigned 09:42:01
15 plethora of problems arise if we're wrong in 09:39:28	15 at birth? 09:42:04
16 that. 09:39:30	16 A. Yeah, we would acquire -- try to get 09:42:05
17 Q. Okay. But your testimony in this case 09:39:30	17 the latest photo or whatever that we could put 09:42:09
18 you're not getting into jail issues? 09:39:33	18 out to alert people. 09:42:12
19 A. No. 09:39:35	19 Q. Okay. And it would be important if a 09:42:14
20 Q. Have you thought about the situation, 09:39:36	20 person presents, currently presents as female 09:42:16
21 let's use any example of a person who is 09:39:40	21 and you're looking for them as a missing person, 09:42:20
22 assigned male at birth but then through whatever 09:39:42	22 you would want to know their current appearance. 09:42:24
23 process has completely transitioned to be 09:39:47	23 True? 09:42:27
24 female. 09:39:51	24 A. True. 09:42:27
25 MR. RODRIGUEZ: Object to form. 09:39:52	25 Q. That would be more important than what 09:42:28
Page 38	Page 40
1 Q. (By Mr. Dalgleish) Have you thought 09:39:54	1 sex they may have been assigned at birth? 09:42:30
2 about what you think driver's license should 09:39:54	2 A. Whatever they look like would be 09:42:32
3 show regarding sex marker? 09:39:58	3 important, yeah. 09:42:34
4 A. I haven't honestly put a lot of thought 09:40:00	4 Q. Okay. And if their current appearance 09:42:34
5 into that, no. 09:40:04	5 and physical characteristics that you want to 09:42:37
6 Q. Okay. It's something you haven't 09:40:04	6 know? 09:42:41
7 encountered? 09:40:07	7 A. Yeah. 09:42:41
8 A. No. 09:40:07	8 Q. When you stop and interview a person 09:42:42
9 Q. So you're not rendering any opinions 09:40:07	9 for investigation of a crime, are they required 09:42:48
10 one way or the other about whether that's -- how 09:40:09	10 to give you identification? 09:42:51
11 that should be on the person's driver's license? 09:40:12	11 A. Only to the point that I have the right 09:42:52
12 A. No. 09:40:14	12 to put them in custody, or I'm investigating of 09:42:59
13 Q. Okay. And I ask you about male. Your 09:40:15	13 a crime or something like that. 09:43:02
14 response is going to be same for a person 09:40:20	14 Q. Okay. The objective is you want to 09:43:03
15 assigned female at birth, I assume? 09:40:21	15 know who they are? 09:43:06
16 A. Yes. 09:40:23	16 A. Yes. 09:43:07
17 Q. But as far as -- strike that. Are you 09:40:26	17 Q. And I respect what you said about you 09:43:08
18 familiar with any of the science of or medicine 09:40:35	18 want to know if there's a warrant out for them 09:43:11
19 of individuals who are called intersex? Do you 09:40:39	19 or how dangerous they are. I mean, that -- 09:43:13
20 know what that means? 09:40:42	20 A. Uh-huh. 09:43:16
21 A. No, not really. 09:40:43	21 Q. -- makes good sense. Do they -- does a 09:43:17
22 Q. Okay. We talked about the situation 09:40:47	22 person in a law enforcement situation like that, 09:43:21
23 where you're encountering a person for law 09:41:14	23 are they required to give you driver's license 09:43:24
24 enforcement purpose. That can happen if they 09:41:18	24 or can they give you some other form of 09:43:26
25 are a suspect or you're suspicious a crime has 09:41:22	25 identification? 09:43:28
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1 A. Well, most people do have their 09:43:28 2 driver's license, but whatever ID they have on 09:43:31 3 them that can help verify who they are is what 09:43:36 4 we work with in these encounters. 09:43:39 5 Q. In the situation where you're given a 09:43:41 6 driver's license, do you look at the totality of 09:43:43 7 the information there? 09:43:46 8 A. Yeah. I look at it to identify who I'm 09:43:48 9 talking to. 09:43:52 10 Q. Okay. And where I was going, where I 09:43:53 11 was going there, it's not just the sex marker on 09:43:57 12 the driver's license that you look at? 09:43:59 13 A. No. Name, height, weight, all of the 09:44:02 14 things to identify. 09:44:06 15 Q. All those things are important, and 09:44:07 16 that gives you a totality of who the person is? 09:44:09 17 A. Yes. 09:44:11 18 Q. How frequently, if you take, you know, 09:44:12 19 your experience, how frequently when you are 09:44:16 20 given a driver's license from a person that 09:44:18 21 you're looking at from a law enforcement 09:44:21 22 perspective, how frequently are there what I'm 09:44:24 23 going to call conflicts or mismatches when you 09:44:28 24 run the ID? 09:44:33 25 A. Well, there's not a lot of mismatches 09:44:34 Page 42	1 A. Yeah. I mean, on the driver's license, 09:45:53 2 you know, people get married, names change. 09:45:56 3 Your height very seldom changes that I have come 09:46:01 4 across. Weight fluctuates. Eye color, contacts 09:46:03 5 maybe, you know, but the things that have always 09:46:08 6 kind of been the same that you could count on 09:46:11 7 was the date of birth being accurate and the sex 09:46:14 8 and usually the height of people when you're 09:46:17 9 really looking at trying to verify people. 09:46:21 10 Q. If you have an accurate date of birth 09:46:24 11 and the person's name, does that pretty much 09:46:28 12 narrow down the law enforcement universe? 09:46:31 13 A. Yeah. Any field that you can verify 09:46:34 14 narrows down who you're talking about. 09:46:37 15 Q. Okay. Let's get out your Declaration. 09:46:38 16 Mark that as Exhibit 3. 09:46:49 17 (Hill Exhibit 3 was marked for 09:46:49 18 identification by the reporter.) 09:46:50 19 Q. (By Mr. Dalglish) I hand you what's 09:46:50 20 been marked as Exhibit 3. I'll give you chance 09:47:01 21 to take a look at that. 09:47:03 22 A. Yes, sir. 09:47:30 23 Q. And is Exhibit 3 your Declaration in 09:47:30 24 this case? 09:47:32 25 A. Yes, sir. 09:47:33 Page 44
1 when we run the ID. I mean, people's weights, 09:44:41 2 you can look at that and see that that changes 09:44:44 3 quite frequently with people, but so to what 09:44:48 4 detail are you talking about exactly? 09:44:53 5 Q. When you get a person's identification 09:44:55 6 I assume you put it into a system or there's a 09:44:58 7 variety of law enforcement systems that's going 09:45:01 8 to feed information back to you. Is that right? 09:45:04 9 A. Yes. 09:45:06 10 Q. And in order to get information back, 09:45:06 11 does there have to be a perfect hundred percent 09:45:09 12 match between the ID that you get in the field 09:45:12 13 in order to get law enforcement information 09:45:15 14 back? 09:45:17 15 A. Well, in the field it's pretty short. 09:45:17 16 We don't detain people for hours as we look at 09:45:20 17 triple Is and get into all that, so when you run 09:45:24 18 those people, unless they have a warrant under 09:45:27 19 that name, date of birth, sex, it's usually not 09:45:30 20 a -- you're not getting an alert on anything. 09:45:34 21 Q. Okay. But is it -- is it, as a 09:45:38 22 seasoned law enforcement person, I'm assuming 09:45:42 23 that you get pretty savvy that you're not going 09:45:45 24 to always have a hundred percent match on 09:45:48 25 identification that you get between -- 09:45:50 Page 43	1 Q. And is it accurate today? 09:47:33 2 A. Yeah. I think it's pretty much the 09:47:35 3 same thing I turned in last time. Yeah. 09:47:38 4 Q. Actually there's some differences and 09:47:40 5 we're going to talk about that. 09:47:42 6 A. Okay. 09:47:43 7 Q. Is there anything that you want to 09:47:44 8 change or correct or -- 09:47:45 9 A. I don't think so. 09:47:47 10 Q. Okay. If as we go through this you see 09:47:49 11 something you think needs to be corrected, just 09:47:52 12 stop me and we'll talk about that. Okay? 09:47:55 13 A. Okay. 09:47:57 14 Q. Otherwise, am I safe in assuming that 09:47:57 15 what you have put in your Declaration marked as 09:48:00 16 Exhibit 3 is the totality of the opinions that 09:48:03 17 you've proposed to offer in this case? 09:48:06 18 A. Yes, sir. 09:48:07 19 Q. Okay. One thing I noticed off the bat 09:48:08 20 when I reviewed your Declaration is that you did 09:48:12 21 not include in this Declaration the incident 09:48:17 22 that we talked about on the SB-180 case. 09:48:19 23 A. No, I didn't put anything else in 09:48:23 24 there. I mean, I am just -- I'm assuming you 09:48:25 25 already have that testimony. That's what I'm 09:48:31 Page 45

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1 later? 09:53:42 2 A. Initially you might not get that. 09:53:43 3 You're just going to get the alerts for the 09:53:47 4 wants and warrants that are out there. 09:53:50 5 Q. But in Paragraph 8 when you talk about 09:53:52 6 ensure officer safety, I'm surmising you're kind 09:53:54 7 of saying the same thing. You want to know who 09:53:59 8 you're dealing with? 09:54:01 9 A. Absolutely. 09:54:02 10 Q. But there's nothing about whether the 09:54:02 11 driver's license says male or female that 09:54:06 12 presents a safety risk to you as a law 09:54:09 13 enforcement person. Just per se on the marker. 09:54:12 14 Doesn't really matter, does it? 09:54:16 15 MR. RODRIGUEZ: Object to form. 09:54:17 16 A. Well, it matters in the fact that 09:54:19 17 knowing who you're dealing with, if you're going 09:54:24 18 to take them into custody, who's even going to 09:54:26 19 pat that person down. If we could get the right 09:54:29 20 gender person there to do that, it's beneficial 09:54:32 21 to all involved. 09:54:35 22 Q. (By Mr. Dalglish) Sure. And that 09:54:36 23 gets to, in general, if it's possible, you want 09:54:37 24 to have a male pat down a male suspect, female 09:54:40 25 pat down female suspect. Right? 09:54:46 Page 50	1 Q. Okay. 09:55:59 2 A. In law enforcement. 09:55:59 3 Q. Is a driver's license the only tool 09:56:01 4 that's involved in identification of suspects, 09:56:04 5 or more importantly, when people are taken into 09:56:08 6 custody? 09:56:11 7 A. No. As a detective, you'll get into 09:56:11 8 the whole triple I, NCIC and backgrounds and all 09:56:15 9 that is correct, but for field contacts it's 09:56:19 10 sometimes the only thing that's out there. 09:56:22 11 Q. For initial, for an initial contact 09:56:24 12 frequently it's a driver's license? 09:56:27 13 A. Yes, sir. 09:56:28 14 Q. But then when you talk about the whole 09:56:29 15 totality of the law enforcement process, that's 09:56:32 16 just maybe the first step tool that's used? 09:56:34 17 A. Yes, sir. 09:56:39 18 Q. A couple times today you've mentioned 09:56:39 19 triple I. What do you mean by triple I? 09:56:42 20 A. That's the criminal history record of 09:56:44 21 people. 09:56:48 22 Q. Okay. In Paragraph 12 you say, quote, 09:56:50 23 A critical piece of such information is a 09:56:59 24 historically accurate record of an individual's 09:57:02 25 gender, close quote. Do you see that? 09:57:07 Page 52
1 A. Yes, sir. 09:54:48 2 Q. But that can be determined and 09:54:49 3 accomplished in a variety of ways. Right? 09:54:52 4 A. Yeah. Once they're in custody, yeah. 09:54:55 5 Q. I mean, the suspect themselves, if 09:54:59 6 there's issue about the sex marker on their 09:55:01 7 driver's license could say something to -- 09:55:04 8 A. If they disclose that to us, yes. 09:55:08 9 Q. Right. I mean, but you haven't had any 09:55:10 10 problem with that issue? 09:55:13 11 A. I personally have not, no. 09:55:14 12 Q. Okay. But the sex designation on the 09:55:16 13 driver's license wouldn't have anything, per se, 09:55:22 14 to do whether the person has a weapon or not? 09:55:25 15 A. No. Only if you missed an 09:55:28 16 identification of someone who was prohibited, 09:55:32 17 but no. 09:55:35 18 Q. Okay. In Paragraph 10 you say that 09:55:36 19 positive identification must be done through an 09:55:38 20 effective process. Do you feel that Kansas has 09:55:42 21 an effective process for positive 09:55:46 22 identification? 09:55:48 23 A. I think the driver's license is a very 09:55:48 24 good tool to start that process. It's been 09:55:52 25 reliable for years. 09:55:57 Page 51	1 A. Yes, sir. 09:57:09 2 Q. Okay. What do you mean by gender? 09:57:12 3 A. Well, again, I'm talking about sex and 09:57:14 4 who you were, who you are now. 09:57:27 5 Q. Okay. I'm sorry. 09:57:29 6 A. No, that's fine. 09:57:32 7 Q. So I mean, when I -- well, when you say 09:57:33 8 gender, does that mean the person's current 09:57:36 9 physical appearance, whether they appear male or 09:57:41 10 female? 09:57:45 11 A. No. I'm referring to, honestly, like, 09:57:45 12 I guess, who you were born as. What's your sex. 09:57:50 13 Q. Okay. So if you're assigned male at 09:57:54 14 birth, but then you have a suspect who has a 09:57:58 15 gender appearance of female, is that what you're 09:58:04 16 getting to in Paragraph 12? 09:58:11 17 MR. RODRIGUEZ: Object to form. 09:58:15 18 A. Well, yeah, kind of like my 09:58:15 19 misidentification of the person. They were a 09:58:19 20 female, but then I thought they were a male. 09:58:22 21 Identified themselves as a male, and then I 09:58:26 22 missed criminal history to that, so... 09:58:30 23 Q. (By Mr. Dalglish) Okay. But we're 09:58:33 24 going to talk about that incident, but stick 09:58:35 25 with what you said your opinion in Paragraph 12, 09:58:37 Page 53

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1 you're saying you wanted to know -- you want to 09:58:40 2 know an accurate picture of a person's gender. 09:58:45 3 A. Yeah. I'm saying that in context of 09:58:49 4 what happened during my encounter. 09:58:51 5 Q. Okay. But what specifically, how do 09:58:53 6 you define gender? Is that something that's 09:58:57 7 different than biological sex? 09:58:59 8 A. No. I believe that's biological sex, 09:59:02 9 if that's what you're asking for a definition. 09:59:05 10 Q. I'm asking what you -- 09:59:07 11 A. Yeah. That's what I'm referring to 09:59:09 12 gender as. 09:59:11 13 Q. Okay. 09:59:12 14 A. Your biological sex. 09:59:13 15 Q. So when you say historically accurate 09:59:14 16 record of an individual's gender, do you mean 09:59:18 17 the sex is assigned at birth? 09:59:20 18 A. Yes. 09:59:23 19 Q. So you want to know that even if the 09:59:24 20 person now presents as female? 09:59:26 21 A. Well, I guess I personally never 09:59:31 22 encountered anybody who has, say, transgendered 09:59:34 23 their entire life. So there was always 09:59:38 24 something prior to that. So yeah, I want to 09:59:41 25 know what the history is so I'm not missing the 09:59:46 Page 54	1 marker on their driver's license in order to 10:01:00 2 frustrate law enforcement? 10:01:03 3 A. I don't personally know of anything. 10:01:05 4 Q. And you don't know of any instance in 10:01:07 5 all of your law enforcement experience where a 10:01:10 6 transgender person has evaded arrest because of 10:01:14 7 the sex marker on their driver's licenses? 10:01:20 8 A. No. Not on their driver's license. 10:01:22 9 Q. And you're not aware of any transgender 10:01:24 10 person who has never been caught or found when 10:01:28 11 you're searching for them because of the sex 10:01:32 12 marker on their driver's licenses? 10:01:35 13 A. Well, the word never is a big word in 10:01:37 14 there, but I am aware and have had contact with 10:01:41 15 individuals that -- well, there was a 10:01:46 16 transgender guy here, the guy that we made 10:01:54 17 contact with several times, said he was a 10:01:56 18 female, dressed like a female, at times would 10:02:01 19 come up where we need to talk to him about 10:02:05 20 criminal activity and he may or may not be 10:02:07 21 dressed as a female, and I mean, that was 10:02:09 22 confusing if you didn't know the individual. 10:02:12 23 Here locally it wasn't as much of a problem 10:02:15 24 because we knew who he was. 10:02:17 25 Q. Okay. I keep promising you, we'll turn 10:02:18 Page 56
1 whole criminal elements that go along with this 09:59:50 2 change, if any. 09:59:53 3 Q. All right. Let's look at Paragraph 13 09:59:55 4 where you say, quote, Allowing individuals to 10:00:01 5 establish alternate or different identities 10:00:04 6 through the issuance of multiple driver's 10:00:07 7 licenses or government issued identification 10:00:10 8 documents could disrupt law enforcement's 10:00:14 9 ability to effectively determine the identity of 10:00:18 10 individuals suspected of violating the law, 10:00:22 11 close quote. Did I read that correctly? 10:00:24 12 A. Yes. 10:00:26 13 Q. So when you use the word could in 10:00:27 14 Paragraph 13, you're providing a speculation of 10:00:31 15 a problem that might happen? 10:00:35 16 A. Correct. 10:00:37 17 Q. You don't have any personal knowledge 10:00:38 18 or experience that any such problem has ever 10:00:39 19 actually happened? 10:00:43 20 A. No. 10:00:43 21 Q. And that's over the course of your 30 10:00:45 22 years of law enforcement experience? 10:00:48 23 A. True. 10:00:49 24 Q. And you don't have any experience of a 10:00:51 25 person, a transgender person changing the sex 10:00:55 Page 55	1 to that. 10:02:22 2 A. Okay. 10:02:23 3 Q. No, no, I appreciate you mentioning it, 10:02:24 4 but other than that instance, there's nothing in 10:02:26 5 your experience that -- 10:02:28 6 A. No, sir. 10:02:30 7 Q. -- that you're referencing in Paragraph 10:02:32 8 13. If you have a -- if you have a citizen in 10:02:34 9 Kansas who changes their address on their 10:02:43 10 driver's license, does that mean they have a 10:02:47 11 different identity? 10:02:50 12 A. No, sir. 10:02:51 13 Q. If they change their height, does that 10:02:52 14 mean they have a different identity? 10:02:55 15 A. No. I don't know that I've ever seen 10:02:57 16 that, but no know. 10:03:01 17 Q. If they change their weight, does that 10:03:01 18 mean they have a different identity? 10:03:03 19 A. No. 10:03:05 20 Q. If they change their name, which of 10:03:07 21 course can happen if the person marries or a 10:03:09 22 variety of reasons, does that mean they have a 10:03:11 23 different identity? 10:03:14 24 A. Not necessarily, no. 10:03:14 25 Q. All right. Let's look at Paragraph 14 10:03:18 Page 57

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1 we're on the same page. So describe what you 10:08:15 2 personally experienced. 10:08:19 3 A. Well, I was called as a detective 10:08:20 4 reference an assault of an individual who got 10:08:25 5 into it with, I believe, a landlord. Was trying 10:08:30 6 to stab them. Officers took that person into 10:08:36 7 custody. I end up interviewing this person. 10:08:40 8 They identified themselves to me, thought it was 10:08:47 9 a male. Ended up being a biological female. 10:08:51 10 They were -- ran what I could and I put the -- 10:08:56 11 checked our records and no, the criminal history 10:09:02 12 of this person didn't pop and then I put them in 10:09:05 13 the jail and the jail called me and said, hey, 10:09:07 14 this is actually a female. And then 10:09:09 15 subsequently, putting that in there, I found 10:09:11 16 that they had multiple arrests. 10:09:14 17 Q. Okay. When did this happen? 10:09:15 18 A. Oh, I don't know that I can even give 10:09:19 19 you a good year. This was -- it would have been 10:09:26 20 a major case/homicide detective. I don't know 10:09:30 21 that I have a good date at all for that. 10:09:42 22 Q. I mean, more than ten years ago? 10:09:44 23 A. Oh, probably. I mean, retired in 2018, 10:09:46 24 and it was years prior from that, so... 10:09:50 25 Q. So was that when you were with? 10:09:58 Page 62	1 A. I absolutely do not. 10:11:00 2 Q. From -- 10:11:02 3 A. It just stuck with me, because I 10:11:04 4 absolutely thought it was a male and it was a 10:11:06 5 female, and -- 10:11:11 6 Q. The physical appearance was male, at 10:11:13 7 least in your mind? 10:11:16 8 A. Yes. 10:11:17 9 Q. Okay. But whether the person was 10:11:17 10 biologically male or female, didn't really make 10:11:23 11 any difference in you arresting them. Right? 10:11:26 12 A. No. 10:11:28 13 Q. Because as I understand it, they had 10:11:29 14 threatened to stab their landlord? 10:11:32 15 A. Yeah. In that case, I mean, it all 10:11:34 16 worked out. It wasn't anything we missed other 10:11:39 17 than I put them in jail, the jail calling me. 10:11:42 18 Q. Okay. But you put them in jail because 10:11:45 19 they committed a crime? 10:11:47 20 A. Correct. 10:11:49 21 Q. And that was going to happen no matter 10:11:49 22 what their driver's license or ID said or didn't 10:11:52 23 say? 10:11:55 24 A. True. 10:11:55 25 Q. And once in jail everything got sorted 10:11:56 Page 64
1 A. TPD. 10:10:01 2 Q. Topeka Police Department? 10:10:02 3 A. Yes, sir. 10:10:04 4 Q. You were a detective? 10:10:04 5 A. Yes, sir. 10:10:05 6 Q. So if we look at your resume, I would 10:10:06 7 have to figure it out. That's a long time ago. 10:10:12 8 A. It was a long time ago, yes. 10:10:14 9 Q. Was there any -- was there any report, 10:10:15 10 written report made of this incident? 10:10:19 11 A. Oh, I'm sure there was. I mean, 10:10:20 12 there's criminal charges that were put for this 10:10:23 13 individual. I'm not sure how I would actually 10:10:25 14 try to find a case number for that at this date. 10:10:33 15 Q. Do you know if the report would still 10:10:35 16 have -- if it happened when you were a TPD, do 10:10:37 17 the reports last forever or do they purge after 10:10:40 18 awhile? 10:10:43 19 A. No. Well, homicide things is the only 10:10:44 20 thing that lasts forever, but they would 10:10:48 21 probably be a court document or something. If I 10:10:50 22 could remember this person's name. 10:10:54 23 Q. Okay. Well, that was the next thing I 10:10:56 24 was going to ask you. Do you remember the 10:10:58 25 person's name? 10:10:59 Page 63	1 out effectively and efficiently? 10:12:00 2 A. Yeah. I assume they dress him in and 10:12:03 3 figured out they were not a guy. 10:12:07 4 Q. Okay. And I think I understood from 10:12:08 5 your prior testimony that this person, although 10:12:13 6 you don't remember their name, was kind of well 10:12:16 7 known to the department? 10:12:20 8 A. Not that person. 10:12:21 9 Q. Not that person. Okay? 10:12:22 10 A. No. 10:12:23 11 Q. Did you ever have any other dealings 10:12:24 12 with the person involved in this one incident? 10:12:27 13 A. I can't say that I did, no. 10:12:29 14 Q. Okay. Was there ever any -- did you 10:12:31 15 ever give any testimony at any kind of a trial 10:12:34 16 or anything like that? 10:12:37 17 A. I don't know that I recall that. I 10:12:38 18 have literally testified in thousands of trials 10:12:41 19 and I don't know if that was -- if that pled or 10:12:43 20 if we went. I really don't recall the outcome 10:12:46 21 of that. 10:12:49 22 Q. Okay. And you know, I went -- went 10:12:49 23 over this in your prior testimony, but when the 10:12:53 24 AG contacted you to try to get some examples, 10:12:56 25 you told the AG's office this one incident was 10:13:00 Page 65

Exhibit 5

1 IN THE SEVENTH JUDICIAL DISTRICT COURT
2 DOUGLAS COUNTY, KANSAS

3 DANIEL DOE, MATTHEW)
4 MOE, KYLE KOE, NICHOLAS)
5 NOE, CAMERON BOYLES and)
6 DAKOTA WEST,)
7)
8 Plaintiffs,)
9)
10 v.) No. G2026-CV-00012
11)
12 STATE OF KANSAS, ex)
13 rel. KRIS KOBACH,)
14 Attorney General,)
15 KANSAS DEPARTMENT OF)
16 REVENUE, KANSAS)
17 DIVISION OF VEHICLES,)
18 DEANN WILLIAMS,)
19 Director of Vehicles,)
20 Department of Revenue,)
21 in her official)
22 capacity, MARK)
23 BURGHART, Secretary of)
24 Kansas Department of)
25 Revenue, in his)
 official capacity,)
 KANSAS DEPARTMENT OF)
 ADMINISTRATION; and)
 ADAM PROFFIT, Secretary)
 of Department of)
 Administration in his)
 official capacity,)
)
 Defendants.)

*** CONFIDENTIAL ***

DEPOSITION OF ROBERT JACOBS, a
Witness, taken on behalf of the Plaintiffs
before Jane A. Blackerby, CSR #1369, CCR #877,
pursuant to Notice on the 17th day of June,
2026, at the Office of the Attorney General, 120
SW 10th Avenue, Topeka, Kansas.

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Page 42 1 Q. Are you aware of a problem that the 2 Kansas Bureau of Investigation has ever had with 3 a transgender citizen resulting from changing of 4 the sex marker on their driver's licenses? 5 A. I am not aware of any. 6 Q. Can you identify any criminal 7 investigation that you have been involved in 8 where a problem or difficulty has arisen because 9 a transgender citizen has a changed sex marker 10 on their driver's licenses? 11 A. No, sir. 12 Q. How many criminal investigations -- 13 you've been in law enforcement what, 35 years? 14 A. Twenty-nine. 15 Q. Twenty-nine. Sorry. You look -- 16 A. Well, I became an agent -- I have been 17 25 years as an agent, but I worked for the 18 bureau as a civilian before that, so 29 total. 19 Q. So in the almost three decades that 20 you've been involved in law enforcement, how 21 many different cases do you think you've been 22 involved in? 23 A. It would be difficult to say. It's 24 over a hundred. 25 Q. Okay. And the same 29 years, how many	Page 44 1 Q. Okay. Who wrote that testimony? 2 A. Our executive officer, Robert Stewart. 3 Q. And what's Mr. Stewart's -- is he still 4 with the KBI? 5 A. Yes, sir. 6 Q. And what is his title or role? 7 A. Executive officer, and he is our 8 legislative liaison. He had my former position. 9 Q. Okay. As a result of the passage of 10 SB-244 has the KBI had to change any of its 11 procedures? 12 A. Not that I'm aware of. 13 Q. Are there any problems that have arisen 14 within the KBI because of the passage of SB-244? 15 A. I don't know that there has been an 16 incident, but I don't know that it was related 17 to the -- specifically to the passage of 244. 18 Q. What was the incident? 19 A. We have an individual who put some 20 stickers or posters up on a wall in their area 21 that was offensive to other people, and they had 22 to be taken down. 23 Q. What was the nature of the stickers? 24 A. I don't know, honestly. 25 Q. What makes you think it was related to
Page 43 1 perpetrators and witnesses and victims of crimes 2 would you estimate you've been involved with? 3 A. Many. 4 Q. I mean, thousands? 5 A. I don't even know that I could put a 6 number on it. I don't know. Some cases have 7 multiple victims, multiple perpetrators, and so 8 it's difficult to say. 9 Q. Okay. Lots? 10 A. Yes. 11 Q. Okay. All right. Did you have 12 anything to do with the drafting of SB-244? 13 A. Not me personally, no. 14 Q. Do you know, when you say not you 15 personally, do you know if somebody that was 16 involved in -- 17 A. Drafting of the bill? 18 Q. Yes, sir. 19 A. I do not know. 20 Q. Did you have anything to do with the 21 legislative process which led to the passage of 22 the bill? 23 A. I did not. Our agency provided 24 testimony to it, but I did not -- I did not 25 write that testimony or participate in that.	Page 45 1 SB-244? 2 A. I don't know that it was related to 3 SB-244. It was related to transgender, but I 4 don't know that it was necessarily specific to 5 SB-244. 6 Q. Okay. How do you know that it was 7 related to transgender? 8 A. I was told that. 9 Q. By whom? 10 A. By Ms. Mattox. 11 Q. Okay. And were these pro transgender 12 stickers, anti transgender stickers or do you 13 know? 14 A. I believe they were pro transgender 15 stickers. 16 Q. And the KBI felt that was inappropriate 17 for some reason? 18 A. Not necessarily that they were 19 inappropriate. They just were not appropriate 20 where they put them, so... 21 Q. Any display in that area would be 22 wrong. Am I -- 23 A. Honestly, I don't know the details of 24 it. I didn't handle that situation. 25 Q. Okay. To your knowledge, has the KBI

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Page 70 1 opinion what -- in Paragraph 15 what Ms. Mattox 2 told you? 3 A. No, sir. 4 Q. Okay. What is the -- what is your -- 5 you don't have any -- this is just your personal 6 opinion. You don't have any citations or 7 support for this proposition, do you? 8 A. So in the -- so within the law 9 enforcement records the goal is to have what's 10 called a golden record. A golden record has one 11 set of data that is shared with all of the other 12 data or repositories, and that is consistent 13 throughout all repositories, and that is the 14 information that you get every time you query 15 one of those repositories and that's the goal. 16 The KBI is currently in the process of 17 purchasing a master data management software 18 program that will create that golden record 19 for -- that's the end result. Whenever there is 20 inconsistency between two records, it will 21 identify that and try and -- try and find a 22 solution to that. And so my -- and what I'm 23 saying there is one -- if it's a data point that 24 can be changed or amended, then you're going to 25 create inconsistencies throughout that. So we	Page 72 1 Q. Okay. So driver's licenses are one bit 2 of data that goes into the KBI's databases? 3 A. Yes, sir. 4 Q. And there's lots of data, bits of data 5 that go into those databases? 6 A. There's additional other data, yes. 7 Q. I mean, there's what? I mean, if we 8 made a list of all the different data points 9 that go in, what would we have on that list? 10 Fingerprints? 11 A. Fingerprints. 12 Q. What else? 13 A. Address, criminal history, Social 14 Security number. I mean, there's all sorts of 15 different data points that can go into all of 16 the law enforcement -- different law enforcement 17 records. Offender registration numbers. So 18 yes. 19 Q. Eye color? 20 A. Yes. That would be part of it, yes. 21 Eye color, hair color. 22 Q. Before the passage of SB-244 were you 23 ever, or to your knowledge was the KBI ever 24 involved in investigating a crime or alleged 25 crime use of a bathroom by a transgender person?
Page 71 1 want one data that is good for everything. 2 Q. Okay. But your -- the opinion that you 3 render in Paragraph 15, you're talking about 4 what you call law enforcement record. Right? 5 A. Yes, sir. 6 Q. Okay. Is a driver's license a law 7 enforcement record? 8 A. Not necessarily. It contributes to law 9 enforcement records, but it's not a law 10 enforcement record, in my opinion. I don't 11 know. 12 Q. Because on a driver's license don't you 13 want the most current information which by 14 definition can change? 15 A. For -- I don't have an opinion on 16 driver's license. I want -- I'm referring to 17 the law enforcement records. 18 Q. Okay. 19 A. We want the most consistent 20 information. 21 Q. So you're not offering any opinions in 22 this case about driver's licenses? 23 A. Only the driver's licenses contribute 24 to law enforcement -- their interaction with law 25 enforcement records.	Page 73 1 A. Not that I'm aware of. 2 Q. Okay. Do you know whether the KBI has 3 any increased or changed responsibilities for 4 enforcement of the bathroom aspects of SB-244? 5 A. Not that we've been told yet. 6 Q. Well, you're the head guy now. You're 7 going to -- you would learn, wouldn't you? 8 A. I would hope. 9 MR. DALGLEISH: Let me take a 10 quick break. We may be done. 11 THE WITNESS: Okay. 12 (Recess.) 13 Q. (By Mr. Dalglish) I may have asked 14 you this already, and if so, I apologize, but in 15 the totality of your law enforcement experience 16 can you identify any problem in law enforcement 17 which has resulted from a transgender person 18 changing the sex marker on their driver's 19 license? 20 A. I had not had any personal experience 21 with that. 22 Q. And you can't identify anybody, 23 anything within the KBI's database which has? 24 A. No, sir. 25 MR. DALGLEISH: That's all the

Exhibit 6

IN THE SEVENTH JUDICIAL DISTRICT
DOUGLAS COUNTY, KANSAS

DANIEL DOE, MATTHEW MOE, KYLE
KOE, NICHOLAS NOE, CAMERON
BROYLES, and DAKOTA WEST,

Plaintiffs,

v.

Case No. DG-2026-cv-000112
Division JMCCABRIA

STATE OF KANSAS, *ex rel* KRIS
KOBACH, Attorney General; KANSAS
DEPARTMENT OF REVENUE,
KANSAS DIVISION OF VEHICLES;
DEANN WILLIAMS, Director of
Vehicles, Department of Revenue, in
her official capacity; MARK
BURGHART, Secretary of Kansas
Department of Revenue, in his official
capacity; KANSAS DEPARTMENT OF
ADMINISTRATION; and ADAM
PROFFIT, Secretary of Department of
Administration, in his official capacity,

Defendants.

**DEFENDANT ATTORNEY GENERAL KRIS KOBACH'S SUPPLEMENTAL
RESPONSES TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Defendant State of Kansas *ex rel* Attorney General Kris Kobach, by and through counsel, submits the following responses to Plaintiffs' First Set of Interrogatories. Defendant makes these responses without conceding the relevance or materiality of any discovery requests and without prejudice to his right to object to admissibility at trial with respect to the subject matter of any discovery request. The word usage and sentence structure are that of Defendant and the attorneys who assisted him with drafting these responses. Defendant makes specific objections to some requests below. These objections and responses are based on

efforts were adversely affected by the sex designation on a DRIVER'S LICENSE

reflecting GENDER IDENTITY instead of SEX ASSIGNED AT BIRTH, and IDENTIFY all DOCUMENTS regarding each incident.

RESPONSE:

Defendant objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome to the extent that it seeks “all incidents.”

Subject to and without waiving this objection, Defendant refers to the testimony of Sheriff Hill (KOBACH_000050–334). Sheriff Hill will testify that a historically accurate record of an individual’s gender is a critical piece of information for positive identification, and that allowing individuals to establish alternate or different identities could disrupt law enforcement’s ability to effectively determine identity. He will recount a specific incident in which he arrested a transgender individual whom he initially identified as male, only to later discover the person was female, and after determining the biological sex, was then able to find a criminal history in the system.

Defendant also refers to the expert declaration of Robert Jacobs, Associate Director of the Kansas Bureau of Investigation, who will testify that driver’s license data is used by the KBI to verify demographic data within multiple law enforcement repositories and that inaccurate or inconsistent records could compromise the integrity of the criminal justice system and the effectiveness of policing, by causing delays in identification and location of suspects. Defendant reserves the right to supplement, modify, or amend this response.

INTERROGATORY NO. 17: IDENTIFY all incidents in which a PERSON who committed a crime escaped, evaded arrest, or avoided punishment because the sex designation on that PERSON’S DRIVER’S LICENSE reflected GENDER IDENTITY and not SEX ASSIGNED AT BIRTH, and IDENTIFY all DOCUMENTS reflecting each such incident.

RESPONSE:

Defendant objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome to the extent that it seeks “all incidents.”

Subject to and without waiving this objection, Defendant refers to the testimony of Sheriff Hill (KOBACH_000050–334), who will recount a specific incident in which a criminal was able to avoid immediate identification because the sex designation in the system did not match the individual’s biological sex. Sheriff Hill will also testify that outside of information contained in a driver’s license or government-issued identification card, the only reasonable alternative for law enforcement to positively establish identification is through incarceration and fingerprinting, meaning that inaccurate sex designations can delay apprehension while officers resort to fingerprint-based identification processes.

Defendant also refers to the expert declaration of Robert Jacobs, who will testify that inaccurate or inconsistent records within the interconnected law enforcement databases (KCJIS, NCIC, NLETS, and III) could cause delays in identification and location of suspects.

Defendant reserves the right to supplement, modify, or amend this response.

INTERROGATORY NO. 18: With respect to YOUR statement (ATTORNEY GENERAL OPPOSITION at p. 29) that “the State had presented testimony from law enforcement officers concerning empirical evidence of criminals changing gender in order to evade arrest,” IDENTIFY all such testimony by transcript citation, IDENTIFY all individuals alleged to have “chang[ed] gender” for that purpose, and IDENTIFY all DOCUMENTS reflecting or evidencing each incident.

RESPONSE:

Defendant objects to this Interrogatory as overly broad and unduly burdensome to the extent it asks Defendant to identify “all such testimony” and “all documents.” In addition, Defendant states that such information is equally available in the public record to Plaintiffs.

Subject to and without waiving these objections, Defendant refers to the testimony of Sheriff Hill (KOBACH_000050–334), including the specific incident in which Sheriff Hill arrested a transgender individual whom he initially identified as male, only to later discover the person was female, and after determining the biological sex, was able to find a criminal history in the system. Sheriff Hill will testify that allowing individuals to establish alternate or different identities through the issuance of multiple driver's licenses or government-issued identification documents could disrupt law enforcement's ability to effectively determine the identity of individuals suspected of violating the law.

Robert Jacobs, Associate Director of the KBI, will further testify that from a law enforcement perspective, having a single, non-amendable source of information for law enforcement records would be considered more reliable and accurate than information that can be altered, and that faulty records could increase liability for law enforcement officers and agencies.

INTERROGATORY NO. 19: IDENTIFY all incidents in which first responders or paramedics were adversely affected by the sex designation on a DRIVER'S LICENSE reflecting GENDER IDENTITY instead of SEX ASSIGNED AT BIRTH (ATTORNEY GENERAL OPPOSITION at p. 27), and IDENTIFY all DOCUMENTS reflecting each such incident.

RESPONSE:

Defendant objects to the Interrogatory as overbroad and unduly burdensome to the extent it requests Defendant to identify "all incidents." Defendant states that he does not have access to and is not the custodian of much of the information sought in this Interrogatory.

Subject to and without waiving these objections, Defendant supplements this response with the expert testimony of Dr. Alyson McGregor, M.D., a board-certified emergency physician and Professor of Emergency Medicine. Dr. McGregor will

Exhibit 15

IN THE SEVENTH JUDICIAL DISTRICT
DOUGLAS COUNTY DISTRICT COURT
CIVIL DEPARTMENT

DANIEL DOE, MATTHEW MOE, KYLE
KOE, NICHOLAS NOE, CAMERON
BROYLES, and DAKOTA WEST

Plaintiffs,

v.

STATE OF KANSAS, *ex rel* KRIS
KOBACH, Attorney General; KANSAS
DEPARTMENT OF REVENUE, KANSAS
DIVISION OF VEHICLES; DEANN
WILLIAMS, Director of Vehicles,
Department of Revenue, in her official
capacity; MARK BURGHART, Secretary of
Kansas Department of Revenue, in his official
capacity; KANSAS DEPARTMENT OF
ADMINISTRATION; and ADAM
PROFFITT, Secretary of Department of
Administration, in his official capacity,

Defendants.

Case No. DG-2026-CV-000112
Div. No. 4

DECLARATION OF JESSICA SWONGER

I, Jessica Swonger, hereby declare and state as follows:

1. I am one of the attorneys representing Plaintiffs in the above-captioned matter. I make this declaration based on my personal knowledge and in support of Plaintiffs' Reply In Support of Renewed Motion for Temporary Injunction dated September 4, 2026.

2. Attached as Exhibit A to this declaration is a true and correct copy of *Driver License Data and the Impact On KBI Repositories* from the Kansas Bureau of Investigation, as referenced in the deposition of Director Robert Jacobs at 50:10-51:4.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 4th day of September, 2026.

/s/Jessica Swonger
Jessica Swonger

Exhibit A



Tony Mattivi
Director

**KANSAS BUREAU OF
INVESTIGATION**
DEDICATION | SERVICE | INTEGRITY

Kris W. Kobach
Attorney General

Driver License Data and the Impact On KBI Repositories

Incident Based Reporting Unit

Driver Licenses are optionally used by officers to verify demographic data when filling out Kansas Standard Offense Reports (KSOR) and Kansas Standard Arrest Reports (KSAR).

If the data is submitted incorrectly, the officer can submit a modification in the Kansas Incident Based Reporting System (KIBRS) to change the information. The change is submitted to the FBI to change in the National Incident Based Reporting System (NIBRS).

The modification in the system is treated like a soft delete. It is hidden, but not fully removed.

Any modifications made could impact statistics and publications. They would change KIBRS views and Master Search on the KCJIS web portal.

Offender Registration Unit

The Kansas Offender Registration Tool (KsORT) is the only repository that has a direct connection with Kansas Department of Revenue (KDOR) Division of Vehicles.

A registered offender who moves to Kansas and is required to register in the state or a new registering offender must provide their information directly to KDOR in order to receive a K number. The offender provides that information to the Sheriff's office, who then submits the registration information into KsORT. A registered offender with an existing K number must provide Driver License information to the Sheriff's Office, who then submits the registration information into KsORT. There is a process that runs within 48 hours that allows KDOR to ping KsORT. Neither agency has the ability to see the other agency's record information.

If all the data matches, the offender is able to obtain their driver license with their registered offender number listed in the bottom left side of the identification. If the data doesn't match, the offender registration unit will work directly with the offender, the Sheriff's Office, and KDOR to help mitigate where the error may have occurred and help the offender get their license. A mismatch requiring mitigation occurs approximately once a month. Common issues are names (particularly hyphenated names or multiple last names) and dates of birth.

Any changes an offender needs to make to their registration information is done directly with the Sheriff's Office in their jurisdiction. The updated registration information is submitted to KsORT. If it is a change to the name, SSN, or DOB, it will override the main offender page with the updated information and the previous information is stored in KsORT. However, if the gender is modified, it remains the modified gender in KsORT and on the public website. There is no history of change that is viewable. IT would have to perform a query to determine any changes.

Offender Registration (OR) data is a source on the KCJIS web portal master search. Depending on what other sources are selected, there could be a conflict from one source showing one gender and the OR source showing a differing gender.

Offenders are fingerprinted at the time of release from prison. The fingerprint card would indicate the gender at the time of release. If that gender differs from a previous arrest in the Computerized Criminal History (CCH), it would change the master record in CCH to the most recent submission.

The Offender Registration unit often shares data with federal databases/partners, such as the National Sex Offender Registry (NSOR), the US Marshalls, Interpol, and Immigration and Customs Enforcement (ICE). When the unit disseminates information, they are providing information that is on the master record. It doesn't contain gender history, but it does contain all available alias information that is available in KsORT.

Criminal History Records Unit

Records staff use Driver License information to verify accuracy of information that has been submitted. It is not used as a source document to enter or change information in CCH.

The master record is the most recent submission. The gender information from the master record is what appears on the Rapsheet, and what is submitted to the FBI; however, the history is retained within CCH.

If there is a discrepancy from a source document, the records staff have to contact the arresting agency to confirm the data. If the information needs modified, the Law Enforcement Agency (LEA) must submit a change form.

If there is a discrepancy from the master record submitted to the FBI and a new submission to the FBI, it will appear on our quarterly sync report that is provided to the FBI. The records staff will conduct research on these discrepancies to confirm which data set is accurate. Part of that research includes reviewing Driver License information on the KCJIS web portal as well as previously submitted source documents. If it appears that the record needs modified, the records staff will contact the LEA to confirm and request that they submit a change form. This will update both the CCH and the FBI record.

Courts can use driver license information to verify the demographics for involuntary commitments and expungements.

If records staff receive an involuntary commitment that has a gender that does not match the master record, the document would be treated as a source document and a change to the master record would be made.

If receives an expungement that has a gender that does not match the master record, they would contact the arresting agency for confirmation and to request a change form, if needed.

Any changes to CCH automatically impacts various other databases: KCJIS web portal, NCIC, NLETS, and III.

It would not automatically change the NICS database. Records staff have to update that based on documentation from the LEA and then make the change in NICS by deleting and re-entering the submission.

Identification Unit

The Automated Biometric Identification System (ABIS) stores keeps every fingerprint card submitted and all demographic identifiers. Identification staff are able to see all the various cards and associated data.

The booking officer fills out arrest card, either based on data directly from the Driver License or data that the offender provides to them. Offenders don't always have a Driver License on them so the booking officer takes whatever information they are provided. If a modification to the arrest card is needed, the LEA must submit a change form.

For applicants that are fingerprinted at the KBI, staff utilize information from a sheet filled out by the individual and enter into the livescan. That information is retained in fingerprint archive system. In the archive system, every card is kept and every gender is retained. In the archive system, the first entry ever received is considered the master record. It will also be what goes into the civil database. If a modification to the applicant card is needed, based on KBI error during processing, the authorized recipient may make this request.

No submissions received through the civil system make changes to CCH. If the applicant has a record in CCH and their gender is different at the time of the civil fingerprint submission, the recipient may receive a rapsheet of the applicant's gender at the time of the arrest, which may raise questions.

Remaining Repositories

Asset Forfeiture: This repository does contain some Driver License data. Any modifications would require documentation from the LEA to change it. Impacts to modified data would include data visualization and reporting.

Use of Force: If the data is submitted incorrectly, the officer can submit a modification in the Use of Force system to change the information. The change is submitted to the FBI to change the national repository.

Death In Custody: If the data is submitted incorrectly, the officer can submit a modification in the Use of Force system to change the information. The change is submitted to the FBI to change the national repository

eCitation: This repository does contain some Driver License data. Any modifications would require documentation from the LEA to change it. Impacts to modified data would include data visualization and reporting.