

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

**BRIEF IN SUPPORT OF PLAINTIFFS' RENEWED MOTION FOR
TEMPORARY INJUNCTION**

TABLE OF CONTENTS

	<u>Page</u>
Introduction.....	1
Statement of Facts.....	1
I. Plaintiffs Are Transgender and Intersex Kansans.....	1
A. Transgender Plaintiffs All Socially, Legally, and Medically Transitioned to Live as Men.....	2
B. Dakota West Is a Woman Who is Intersex	3
II. SB 244’s Procedural Irregularities and Punitive Enforcement Scheme	5
A. SB 244 Was Enacted Using Procedural Irregularities to Avoid Public Comment and Debate.....	5
B. SB 244 Criminalizes Transgender People for Using Restrooms in Public Buildings the Same Way that Non-Transgender People Do.....	6
C. Plaintiffs Have Been Harmed by the Restroom Ban	7
D. SB 244 Requires Transgender and Intersex Kansans to Carry Driver’s Licenses Displaying Their “Biological Sex”, Regardless of Any Contrary Legal Recognition or Other Steps Taken to Live Consistent With Their Gender Identity	10
E. Plaintiffs Have Been Harmed By SB 244’s Driver’s License Restriction.....	11
Argument	14
I. Plaintiffs Are Substantially Likely to Prevail on Their Individual Rights Claims	15
A. SB 244 Infringes Plaintiffs’ Fundamental Right to Personal Autonomy	15
B. SB 244 Fails Strict Scrutiny or Any Other Standard of Review.....	20
i. The Restroom Ban does not further women’s safety or privacy	20
ii. The License Restriction does not further law enforcement interests	22
iii. The License Restriction does not further an interest in accurate vital records	25
iv. The License Restriction does not further medical interests	25
v. The asserted state interests are pretextual	26
C. SB 244 Violates Plaintiffs’ Fundamental Rights to Privacy.....	26
D. SB 244 Violates Plaintiffs’ Right to Freedom from Compelled Speech	28
E. SB 244 Violates the Kansas Constitution’s Equal Protection Guarantee	29

F.	SB 244 Violates the Kansas Constitution’s Single-Subject and Clear-Title Rule	30
II.	The Court Should Issue a Temporary Injunction.....	34
A.	Plaintiffs Satisfy the Remaining Factors for a Temporary Injunction.....	34
B.	Injunctive Relief Must Issue to Remedy the Constitutional Violations	35
	Conclusion	35

TABLE OF AUTHORITIES

	Page(s)
Federal Cases	
<i>Arroyo Gonzalez v. Rossello Nevares</i> , 305 F. Supp. 327 (D.P.R. 2018).....	18
<i>Bostock v. Clayton County, Ga.</i> , 590 U.S. 644 (2020).....	30
<i>Hernandez-Montiel v. I.N.S.</i> , 225 F.3d 1084 (9th Cir. 2000), <i>overruled on other grounds by Thomas v. Gonzales</i> , 409 F.3d 1177 (9th Cir. 2005).....	17
<i>Love v. Johnson</i> , 146 F. Supp. 3d 848 (E.D. Mich. 2015).....	18
<i>Obergefell v. Hodges</i> , 576 U.S. 644 (2015).....	16
<i>Olmstead v. United States</i> , 277 U.S. 438 (1928) (Brandeis, J., dissenting)	27
<i>Pac. Gas & Elec. Co. v. Pub. Utils. Comm’n of Cal.</i> , 475 U.S. 1 (1986).....	28
<i>Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1</i> , 551 U.S. 701 (2007) (Kennedy, J., concurring in part)	19
<i>Pers. Adm’r of Massachusetts v. Feeney</i> , 442 U.S. 256 (1979).....	33
<i>Rigoberto S. J. v. Bondi</i> , No. 26-CV-957, 2026 WL 490104 (D. Minn. Feb. 20, 2026).....	17
<i>Riley v. Nat’l Fed’n of the Blind of N.C., Inc.</i> , 487 U.S. 781 (1988).....	28
<i>Roe v. Critchfield</i> , 137 F.4th 912 (9th Cir. 2025)	21
<i>Romer v. Evans</i> , 517 U.S. 620 (1996).....	30
<i>U.S. Dep’t. of Agric. v. Moreno</i> , 413 U.S. 528 (1973).....	33

<i>United States v. Windsor</i> , 570 U.S. 744 (2013).....	19
<i>Walker v. Tex. Div., Sons of Confederate Veterans, Inc.</i> , 576 U.S. 200 (2015).....	29
<i>Wooley v. Maynard</i> , 430 U.S. 705 (1977).....	28, 29
State Cases	
<i>Allegheny Reprod. Health Ctr. v. Pennsylvania Dep’t of Hum. Servs.</i> , 309 A.3d 808 (Pa. 2024).....	18
<i>Alpha Med. Clinic v. Anderson</i> , 280 Kan. 903 (2006)	27
<i>Bd. of Cnty. Comm’rs of Leavenworth Cnty. v. Whitson</i> , 281 Kan. 678 (2006)	34
<i>Cashin v. State Highway Comm’n</i> , 22 P.2d 939 (Kan. 1933)	31, 33, 35
<i>Chancellor v. Dozier</i> , 283 Ga. 259 (2008)	17
<i>Dotson v. McLaughlin</i> , 216 Kan. 201 (1975)	27
<i>Downtown Bar & Grill v. State</i> , 294 Kan. 188 (2012)	14
<i>Farley v. Engelken</i> , 241 Kan. 663 (1987)	20
<i>State ex rel. Fatzer v. Shanahan</i> , 178 Kan. 400 (1955)	31
<i>Garten Enters., Inc. v. City of Kan. City</i> , 219 Kan. 620 (1976)	31
<i>Gerawan Farming, Inc. v. Lyons</i> , 12 P.3d 720 (Cal. 2000)	28
<i>Hodes & Nauser, MDs, P.A. v. Schmidt</i> , 309 Kan. 610 (2019) (<i>Hodes I</i>)	<i>passim</i>
<i>Hodes & Nauser, MDs, P.A. v. Stanek</i> , 318 Kan. 995 (2024) (<i>Hodes II</i>).....	16, 20

<i>Jegley v. Picado</i> , 80 S.W.3d 332 (Ark. 2002)	27
<i>K.L. v. State, Dep’t of Admin., Div. of Motor Vehicles</i> , No. 3AN–11–05431 CI, 2012 WL 2685183 (Alaska Super. Ct. Mar. 12, 2012)	18, 27
<i>In re K.M.H.</i> , 285 Kan. 53 (2007)	30
<i>Kalarchik v. State</i> , 427 Mont. 333 (2026)	17, 18, 20, 25
<i>Kansas One-Call Sys., Inc. v. State</i> , 294 Kan. 220 (2012)	31
<i>Kerrigan v. Comm’r of Pub. Health</i> , 957 A.2d 407 (Conn. 2008)	19
<i>State ex rel. Dole v. Kirchner</i> , 182 Kan. 622 (1958)	32
<i>State ex rel. Kobach v. Harper</i> , 65 Kan. App. 2d 680 (2025)	11, 22
<i>League of Women Voters of Kan. v. Schwab</i> , 318 Kan. 777 (2024)	28
<i>Powell v. State</i> , 510 S.E.2d 18 (Ga. 1998)	27
<i>Rivera v. Schwab</i> , 315 Kan. 877 (2022)	29, 30
<i>State v. Albano</i> , 313 Kan. 638 (2021)	29, 30
<i>State v. Alston</i> , 256 Kan. 571 (1994)	34
<i>State v. Barrett</i> , 27 Kan. 213 (1882)	31, 32
<i>State v. Carr</i> , 314 Kan. 615	16
<i>State v. Lawson</i> , 296 Kan. 1084 (2013)	30

<i>State v. Limon</i> , 280 Kan. 275 (2005)	30
<i>State v. Roseberry</i> , 222 Kan. 715 (1977)	31
<i>State v. Ryce</i> , 303 Kan. 899 (2016)	35
<i>State v. Sholl</i> , 58 Kan. 507 (1897)	31, 33
<i>Steffes v. City of Lawrence</i> , 284 Kan. 380 (2007)	34
<i>State ex rel. Stephan v. Thiessen</i> , 228 Kan. 136 (1980)	31, 33, 34, 35
<i>Stephenson v. Sugar Creek Packing</i> , 250 Kan. 768 (1992)	30
<i>Tiller v. Corrigan</i> , 286 Kan. 30 (2008)	27
<i>Trust Women Found. Inc. v. Bennett</i> , No. 121,693, 2022 WL 1597011 (Kan. Ct. App. 2022)	34
State Statutes	
K.S.A. § 8-235	10, 19
K.S.A. § 8-240(c).....	10
K.S.A. § 8-243(a).....	10
K.S.A. § 8-262	10, 19
K.S.A. § 21-6602	7
K.S.A. § 65-1,110	17
K.S.A. § 77-207	6
SB 244.....	<i>passim</i>
Regulations	
Kan. Admin. Regs. § 115-3-1(g)	32

Constitutional Provisions

U.S. Const. amend. I	28
Kansas Bill of Rights	<i>passim</i>
Kansas Constitution	1
Kansas Constitution, art. II, § 16	30, 32
Kansas Constitution, Bill of Rights, § 1	<i>passim</i>
Kansas Constitution, Bill of Rights, § 2	29
Kansas Constitution, Bill of Rights, § 11	28
U.S. Const. amend. XIV	29

Other Authorities

2026 Leg. Reg. Sess. (Kan. 2026)	6
Anthony B. Sanders, <i>Social Contracts: The State Convention Drafting History of the Lockean Natural Rights Guarantees</i> , 93 UMKC L. Rev. 641 (2025)	27

INTRODUCTION

Cameron Broyles is a Kansas father who must ask his children if they can wait until they reach a Missouri rest stop to use the restroom. Daniel Doe sweats through his pants in fear at the thought of using a restroom at work. Kyle Koe ends his lunch break hunting for an empty restroom, floors away from his desk. Matthew Moe spends 40-60 hours a week on a campus where he may be 30 minutes away from finding a restroom. Nicholas Noe returns to class soaked if it's raining when he walks outside to find a restroom. Dakota West has left Kansas, her home. And they all live in dread of needing to use their driver's license to work, bank, vote, or travel.

Why? Because SB 244 conditions transgender and intersex Kansans' participation in civic life on their willingness to disclaim their gender identities when they need a restroom in a government building, or to hold a valid driver's license. The law degrades them as less than other men and women. Requiring Plaintiffs to live in accordance with their sex assigned at birth, or face criminal penalties, violates the Kansas Constitution. So does using legislative skullduggery to ram through a hybrid bill with a sole unifying theme of restricting people's lives based on sex or gender. Only a temporary injunction can remedy these injustices.

STATEMENT OF FACTS

I. Plaintiffs Are Transgender and Intersex Kansans

Cameron Broyles, Daniel Doe, Kyle Koe, Matthew Moe, and Nicholas Noe are all transgender men who live and work in Kansas. At birth, their sex was designated as female. But as adults, they socially, legally, and medically transitioned to live as men. For years, they have been known in their communities only as men.

Dakota West is an intersex woman who lived in Kansas until last month and will return here to visit family. Dakota left Kansas because of SB 244 and would consider moving back absent

the law. Though her sex assigned at birth was male and she only learned about her intersex condition as an adult, she has been living as a woman since she was thirteen years old.

A. Transgender Plaintiffs All Socially, Legally, and Medically Transitioned to Live as Men

Cameron, Daniel, Kyle, Matthew, and Nicholas have known since childhood or late adolescence that they were boys and wanted to live their lives as men. Ex. 1, Broyles ¶13; Ex. 2, Doe ¶9; Ex. 3, Koe ¶11; Ex. 4, Moe ¶10; Ex. 5, Noe ¶9. Each was assigned female at birth and raised as girls; all realized that, deep in their core sense of self, they were meant to be men. *Id.* Daniel knew this truth when he was five years old and told his parents “I wish I was a boy, I want to be a boy, I don’t want to be a girl.” Ex. 2, Doe ¶9. Nicholas knew the same. Ex. 5, Noe ¶9. As Plaintiffs’ expert witness Dr. Angela Turpin (a Kansas pediatric endocrinologist who treats gender dysphoria in transgender and intersex adolescents and young adults) explains, these are common experiences for transgender people, whose gender identity—their “deeply felt, inherent sense of their gender”—is different from their sex assigned at birth. Ex. 6, Turpin ¶26, 29.

Consistent with their identity as men, all five transgender plaintiffs began living their lives as men as soon as they were able to do so. This process of beginning to live and be socially recognized as one’s gender identity is called social transition. *Id.* ¶38. Expressing their core identity involved presenting socially as men, including dressing and grooming in ways that were both consistent with their sense of self and likely to be read by other people as signaling they were men. Ex. 1, Broyles ¶13; Ex. 2, Doe ¶13; Ex. 3, Koe ¶11; Ex. 4, Moe ¶14; Ex. 5, Noe ¶10.

As they began living as men, these plaintiffs sought out medical treatment to better align their bodies with their gender. Ex. 1, Broyles ¶13; Ex. 2, Doe ¶11-12; Ex. 3, Koe ¶11; Ex. 4, Moe ¶15; Ex. 5, Noe ¶10. Such medical treatment is common among transgender people: the clinically significant distress or impairment caused by incongruence between a person’s gender identity and

sex assigned at birth constitutes a medical condition called gender dysphoria, which left untreated can lead to significant anxiety, depression, and suicidality. Ex. 6, Turpin ¶¶32-34. Those treatments, primarily testosterone hormone therapy and surgery, allowed plaintiffs to inhabit bodies that reflected their identity as men. Ex. 1, Broyles ¶13; Ex. 2, Doe ¶11; Ex. 3, Koe ¶11; Ex. 4, Moe ¶15; Ex. 5, Noe ¶10. Which medical treatments each man pursued was an individual decision: the standard of care for gender dysphoria involves treatment designed to bring people's bodies and gender expression in line with their gender identities, depending on the individual's particular needs. Ex. 6, Turpin ¶¶36-40.

All five men also sought legal recognition of their gender identity, which is part of social transition. *Id.* ¶38, 57. Matthew changed his name and legal gender before moving to Kansas, so until SB 244, his Kansas license only ever had an "M." Ex. 4, Moe ¶16. Cameron, Daniel, Kyle, and Nicholas followed Defendant Kansas Department of Revenue ("KDOR")'s prior policies to change the sex markers on their Kansas driver's licenses. Ex. 1, Broyles ¶14; Ex. 2, Doe ¶15-16; Ex. 3, Koe ¶12; Ex. 5, Noe ¶11. From 2011 until SB 244 earlier this year, KDOR permitted gender reclassification based on a court order or a medical declaration from a licensed physician stating that reclassification was appropriate based on clinical treatment or physical criteria. Ex. 7, KDOR Responses to Plaintiffs' Interrog. No. 11.

Since their social and medical transitions, these plaintiffs are seen as men in their everyday lives: no one who looks at them knows they are transgender or that, decades ago, their birth sex was female. Ex. 1, Broyles ¶30; Ex. 2, Doe ¶19, 41; Ex. 3, Koe ¶40; Ex. 4, Moe ¶ 41; Ex. 5, Noe ¶13, 43; Ex. 6, Turpin ¶41, 45. They have all used men's restrooms for years without incident. Ex. 1, Broyles ¶20; Ex. 2, Doe ¶44; Ex. 3, Koe ¶14; Ex. 4, Moe ¶39; Ex. 5, Noe ¶47.

B. Dakota West Is a Woman Who is Intersex

Plaintiff Dakota West is an intersex woman. An intersex person is someone whose sex

characteristics such as chromosomes, external genitalia, and internal reproductive organs do not all align as typically male or typically female. Ex. 6, Turpin ¶35. Intersex conditions are sometimes called “differences of sex development.” *Id.* ¶5. Intersex people may experience gender dysphoria if various facets of their sex do not align with their gender identity. *Id.* ¶44. Many intersex conditions are not apparent at birth and may not be discovered until there is a failure to go through puberty or puberty begins in a way that is unexpected given the person’s sex assigned at birth. *Id.* ¶44. In Dakota’s case, she has androgen insensitivity syndrome, which means that she has XY chromosomes but her body does not respond to testosterone in a typical way, and she did not go through male puberty. *Id.* ¶22, 44; Ex. 8, West ¶16.

Dakota’s sex assigned at birth was male, and she did not discover that she was intersex until later in life. Ex. 8, West ¶7, 16. But as Dakota says, “I have known that I am a woman from a very young age . . . I have vivid childhood memories of watching Barbie movies, loving the color pink, and generally feeling different emotionally and physically from boys.” *Id.* ¶8. Dakota did not experience a typical puberty: she did not develop the secondary sex characteristics that most boys experience. *Id.* ¶12. Although a doctor recommended testosterone treatment, her father declined because “he believed such treatment would impose an identity on [her] that was not [her] own and that [she] should develop how God intended.” *Id.* ¶15. In middle school, Dakota began living her life as a girl, including presenting herself as female and using girls or women’s restrooms. *Id.* ¶11, 42. As an adult, she began hormone therapy (estrogen) to better align her body with her female gender identity, and because she had not undergone endogenous puberty. *Id.* ¶14. And she sought genetic testing, which is how she learned about her androgen insensitivity syndrome. *Id.* ¶16.

Until that point, Dakota (and others) had assumed she was transgender because of the incongruence between her sex assigned at birth and her gender identity; however, Dakota does not

identify as transgender, but as intersex. *Id.* ¶7. For Dakota, “Being diagnosed with androgen insensitivity syndrome allowed me to fully embrace my identity as an intersex woman. I now understand why I always felt so different from my peers.” *Id.* ¶17. She lives her life as a woman. *Id.* ¶11, 47. Before SB 244, she changed her driver’s license under KDOR’s old policy. *Id.* ¶19.

II. SB 244’s Procedural Irregularities and Punitive Enforcement Scheme

A. SB 244 Was Enacted Using Procedural Irregularities to Avoid Public Comment and Debate

SB 244 was the result of multiple procedural irregularities in the Kansas Legislature. The License Restriction in SB 244 was first presented as HB 2426 at a public hearing of the House Judiciary Committee, scheduled with less than 24 hours’ notice. Ex. 9, Swonger ¶11, 13, Ex. J, L. HB 2426, titled “AN ACT amending the women’s bill of rights,” dealt only with the definition of gender, driver’s licenses, and birth certificates. *Id.* ¶2, 3; Ex. A, B at 1581. More than 200 people opposed the bill through written testimony, and members of the public also testified live. *Id.* ¶11, 14; Ex. J, M; *see also Id.* ¶4; Ex. C at 2–5 (recording minutes related to HB 2426 from January 13 and attaching public testimony). This was the only public hearing on the bill. *Id.* ¶14, Ex. M.

After that lone public hearing, the Committee tacked on the Restroom Ban, along with its criminal and civil penalties and a private enforcement scheme. *Id.* ¶5, 12; Ex. D at 3, K. There was no opportunity for public input on the amendment, and no public notice that the Committee would take action on HB 2426 or add a criminal restroom ban. *Id.* ¶15, Ex. N. To circumvent a Senate hearing on the combined provisions, the Committee executed a “gut and go,” meaning it dumped the contents of HB 2426 into SB 244, a bill originally passed in February 2025 regulating bail bond companies; this allowed the Senate to simply concur with the overwritten bill. *Id.* ¶5-7, 12; Ex. D at 3-4, E (bail bonds version), F at 206-07 (recording passage of bail bonds version), K. The House then passed the bill via final emergency action. *Id.* ¶8, Ex. G at 1670–78. That same evening,

the Senate concurred with the bill. *Id.* ¶9, 13; Ex. H at 1374, L. Over a few short weeks, SB 244 was enrolled and presented to the Governor; the Governor vetoed SB 244 and it returned to the Senate (*id.* ¶15, Ex. N); the Senate and House overrode the veto (*id.* ¶16–17, Ex. O, P) and SB 244 became law on February 26, 2026. SB 244, 2026 Leg. Reg. Sess. (Kan. 2026); Ex. 9, Swonger ¶10, Ex. I.

Legislators and local government leaders described this process as a “railroad job,” (*id.* ¶11, Ex. J), and “[p]rocedurally . . . the absolute worst bill I have ever heard in the Kansas Legislature.” *Id.* ¶13, Ex. L. This was in part because the Committee heard the original HB 2426 “without the benefit of the written testimony of hundreds of Kansans who took the trouble to write to the committee to express their opinions,” (*id.* ¶11, Ex. J), and other procedural tactics “ensure[d] that the absolute least number of people were available as opponents to this bill.” *Id.* ¶13, Ex. L. The bill’s sponsor admitted she expected the issue of whether the Restroom Ban was germane to the original bill to come up. *Id.* ¶12, Ex. K. SB 244’s passage was so rushed that the bill contained no fiscal note for the separately added Restroom Ban. *Id.* ¶13–14; Ex. L, M.

B. SB 244 Criminalizes Transgender People for Using Restrooms in Public Buildings the Same Way that Non-Transgender People Do

SB 244 punishes transgender people with fines and criminal penalties if they use restrooms congruent with their gender identity in government owned or leased buildings. The Restroom Ban applies to “multiple-occupancy” restrooms and other “private space[s]” in nearly all buildings owned or leased by a government entity. SB 244, § 1(a)(4), (a)(5). Even if they contain “curtains or partial walls,” such spaces must be designated “for use only by individuals of one sex,” *id.* § 1(a)(4), (b)(1), meaning “biological sex, either male or female, *at birth*.” *Id.* § 1(a)(6) (cross-referencing K.S.A. § 77-207 as amended) (emphasis added); *see also id.* § 5(b)(8) (defining “sex” as “the biological indication of male and female in the context of reproductive potential or

capacity”); *id.* § 6(a)(2) (defining “male” and “female” with reference to whether one’s “biological reproductive system” has developed to “produce” or “fertilize” ova).

Failure to comply with the Ban results in fines, criminal penalties, and potential civil liability. SB 244 imposes \$1,000 civil penalties for second violations, and each subsequent violation is a class B misdemeanor, which carries up to six months of jail time. *Id.* § 1(g)(2)-(3); *see* K.S.A. § 21-6602. Ex. 10, KDOA Rog. Resp. No. 16. Anyone “aggrieved” by a violation can sue the individual transgender or intersex person for actual damages or \$1,000 liquidated damages and seek declaratory and injunctive relief, attorney’s fees, and costs. SB 244, § 1(h)(1), (3).

C. Plaintiffs Have Been Harmed by the Restroom Ban

Cameron is a single father to three young children, who either still need his help in restrooms or are too young to go alone in public places. Ex. 1, Broyles ¶10, 49. He has nowhere to urinate when he visits his children’s school for performances or takes them to their after-school activities. *Id.* ¶38, 40-41. There is a public pool less than a mile from his house in Kansas, but he now drives thirty minutes to Nebraska to take his kids swimming. *Id.* ¶39. If one of his children needs to use the restroom while he is driving them in Kansas, he asks if they can hold it until they reach another state. *Id.* ¶39. He cannot risk a confrontation about what restroom he should be using when he is with his children, especially if law enforcement could be called. *Id.* ¶29, 42, 43, 49.

Daniel is not out at work and has used the men’s restrooms without incident for years. Ex. 2, Doe ¶38, 42. Since SB 244, Daniel has had to use a single-user restroom at work in ways that have drawn unwanted attention and risked “outing” him as transgender. For example, a colleague asked why he was near the single-user restroom and saw him waiting for that restroom to become unoccupied even with the men’s room right there. *Id.* ¶48. The stress about finding and using the restroom has made him nauseous, unable to sleep or focus, and caused bladder pain; he has also repeatedly sweated through his pants. *Id.* ¶26.

Kyle is a state employee. There are no single-user restrooms in his building. Ex. 3, Koe ¶6, 30. After SB 244, when Kyle told security officers in another building that he needed to find a single-user restroom, they offered to stand outside the men’s room to make sure no one else came in; Kyle was forced to explain that, even by himself, he was not allowed inside. The officers blocked off the women’s room for him instead. But that is not possible every time Kyle needs the restroom, and “It is incredibly upsetting and embarrassing to require a chaperone to use the restroom as an adult.” *Id.* ¶31. The nearest single-user restroom is two blocks away from his desk—a ten-minute walk—and when that restroom is occupied or closed for cleaning, Kyle must walk another five to seven minutes. *Id.* ¶30. He now suffers from headaches, stomachaches, and bladder pain. *Id.* ¶19. When Kyle’s need to use the restroom after lunch is too urgent to make the walk outside, he reluctantly uses the women’s restroom and tries to find an empty one on a different floor. *Id.* ¶32. Women who see him in the women’s restroom are visibly startled and confused: they have assumed he was sick, glared at him, whispered and pointed, and even physically blocked him from leaving. *Id.* ¶32. Kyle is emasculated, embarrassed, and uncomfortable. *Id.* ¶31-33.

Matthew is a PhD candidate and spends 40-60 hours a week on campus. Ex. 4, Moe ¶46. He must walk three flights of stairs to reach the nearest single-user restroom, but people use it for phone calls, leaving him waiting for 30 minutes. *Id.* ¶48. The next nearest single-user restroom is in another building, up five flights of stairs. *Id.* When he works as a teaching assistant, there is not enough time during breaks to reach a single-user restroom. *Id.*

Nicholas is enrolled at a community college to become an EMT. Ex. 5, Noe ¶ 6. There are no single-user restrooms in his building; it is a 10–15-minute round trip across campus to the nearest single-user restroom. *Id.* ¶41. When it is raining, he returns to class soaked. *Id.* ¶41. Even in good weather, he misses instruction time, when he should be learning how to save lives. *Id.* ¶41.

Needing a restroom accommodation outed him as transgender to his instructors. *Id.* ¶31-40. He was also targeted for a mock pelvic exam after a visiting instructor learned his restroom use was restricted by SB 244. *Id.* ¶33-36. Sometimes Nicholas must use the restroom so urgently that he considers using the women’s restroom, but he worries that people will assume he is a predator following in a young woman. *Id.* ¶44. He would rather not use the restroom at all than make women or girls feel uncomfortable. *Id.* ¶44. Feeling like his existence is “wrong” makes him feel like he is not worthy of a prosperous and safe life compared to his peers. *Id.* ¶21, 49.

Dakota is an intersex woman, and she cannot safely use men’s restrooms. Ex. 8, West ¶7, 12, 48 49. She fears harassment, sexual targeting, and violence: the “idea of being in a men’s restroom is terrifying. . . because I do not belong there.” *Id.* ¶49. Until recently, Dakota lived in Kansas. In part because of SB 244, she has moved out of state, but she intends to visit Kansas to see family and friends. Dakota says, “I love and miss Kansas because it is my home and I would like to return to it someday. I left Kansas because it has turned into something I no longer recognize and does not feel like my home anymore.” She would consider returning absent SB 244. *Id.* ¶51.

As Plaintiffs’ expert Dr. Ayden Scheim (an epidemiologist and academic who specializes in the social determinants of mental health, physical health, and access to healthcare among transgender individuals) explains, these negative effects on mental and physical health are typical for transgender and intersex people when their restroom access is restricted. Ex. 11, Scheim ¶25-30. Plaintiffs’ experiences are common among other transgender people, who suffer in employment and education when they cannot use gender-concordant restrooms. *Id.* ¶31. When transgender and intersex Kansans are unable to access restrooms in accordance with their gender identity, they are at risk of stigma and mistreatment, as well as significant negative medical consequences from avoiding the restroom or reducing food and water intake. Ex. 6, Turpin ¶49,

53-54. There is no scientific evidence that restricting transgender people’s restroom use promotes public safety, but multiple studies show that permitting transgender people to use restrooms consistent with their gender identity is not associated with increases in criminal incidents in restrooms. Ex. 11, Scheim ¶20, 34-35.

D. SB 244 Requires Transgender and Intersex Kansans to Carry Driver’s Licenses Displaying Their “Biological Sex”, Regardless of Any Contrary Legal Recognition or Other Steps Taken to Live Consistent With Their Gender Identity

A separately drafted portion of SB 244, the “License Restriction,” requires that Kansas driver’s licenses must reflect the State’s narrow definition of “biological sex,” rather than a person’s gender identity. SB 244 § 4(g)(2); *see also* K.S.A. §§ 8-240(c), 8-243(a) (providing that all Kansas driver’s licenses “shall bear” the “full legal name, date of birth, gender and address of [the licensee’s] principal residence,” among other information). Although SB 244 uses “biological sex,” this restriction is being implemented by reference to sex assigned at birth. Ex. 12, KDOR’s First Supp. RFP Resp. No. 12; Ex. 7, KDOR Rog. Resp. No. 11. SB 244 requires KDOR to “correct” any existing license records that “identify the gender” of an individual “in a manner that is contrary” to the state’s definition of “gender.” SB 244, § 4(g)(2). Non-compliant licenses are “invalid.” *Id.* § 4(g)(1), (2). It is a crime to drive without a valid license. K.S.A. §§ 8-235, 8-262. In February 2026, KDOR estimated that 1,700 people would need new licenses under SB 244. Ex. 13, KDOR Fiscal Note re SB 244. KDOR has since invalidated 275 driver’s licenses (Ex. 7, KDOR Rog. Resp. No. 13) and taken steps to ensure that future licenses are issued in compliance with SB 244. *Id.* at No. 22.

As the Kansas Court of Appeals recognized last year, KDOR previously maintained a policy of issuing licenses that reflect an individual’s gender identity, rather than sex assigned at birth. *State ex rel. Kobach v. Harper*, 65 Kan. App. 2d 680, 696 (2025). More than 300 people

relied on this policy to change their gender markers in Kansas between 2011 and 2022, when—at the Attorney General’s request—a Shawnee County District Court wrongly enjoined KDOR’s practice. *See id.* at 696, 726 (reversing the injunction and finding that “the evidence was overwhelming that there was no harm” to the State from KDOR’s policy and “[n]o one was able to bring forward *any* instance of the feared harm of misidentification of criminals in the last 16 years or even the potential [of] a problem.”); Ex. 7, KDOR Rog. Resp. No. 11.

E. Plaintiffs Have Been Harmed By SB 244’s Driver’s License Restriction

All plaintiffs have complied with SB 244 by surrendering their licenses in exchange for ones that list their sexes assigned at birth. Ex. 1, Broyles ¶16; Ex. 2, Doe ¶25; Ex. 3, Koe ¶13; Ex. 4, Moe ¶28; Ex. 5, Noe ¶12; Ex. 8, West ¶20. Cameron, Daniel, Kyle, Matthew, and Nicholas deeply disagree with the message they are forced to convey when they present their driver’s license—that they are forever defined as women because of their sex assigned at birth. Ex. 1, Broyles ¶21, 22; Ex. 2, Doe ¶22; Ex. 3, Koe ¶21; Ex. 4, Moe ¶24; Ex. 5, Noe ¶21; Ex. 8, West ¶21. These plaintiffs look like men, live as men, and are not known as women. Ex. 1, Broyles ¶19, 20; Ex. 2, Doe ¶41; Ex. 3, Koe ¶33, 39; Ex. 4, Moe ¶25; Ex. 5, Noe ¶13. Given their social, legal, and medical transition, it is inaccurate to describe them as women. Ex. 1, Broyles ¶35, 48; Ex. 2, Doe ¶22, 37; Ex. 3, Koe ¶21, 39; Ex. 4, Moe ¶41; Ex. 5, Noe ¶14. Each man, in his own way, is degraded by being forced to carry the State’s message that he is a woman. Daniel is humiliated to carry a document that says “I am not really a man, or that I am less of a man.” Ex. 2, Doe ¶22, 23. For Matthew, “My maleness is a core part of my identity, so much so that I had the male symbol tattooed on my body. . .so that no matter what happens, there is a sign on my body of my true identity.” Ex. 4, Moe ¶25. For Nicholas, “the kick in the gut” is that every time he sees his driver’s license, he is reminded that Kansas thinks he is part of a group of people that is “wrong,” and he feels like a burden. Ex. 5, Noe ¶21. Dakota is an intersex woman—she is not a man—and given

her medical history, it is both inaccurate and offensive to be described as male. Ex. 8, West ¶7, 14, 16, 22. But Plaintiffs’ licenses now convey that, to the State of Kansas, they are not men and women on the same terms as other men and women.

In addition to demeaning their identity as men and women, the License Restriction has concrete negative effects on Plaintiffs’ everyday lives because of the real social and professional consequences of being outed as transgender or intersex. As SB 244 went into effect, Plaintiffs feared these consequences based on their prior experiences. Before SB 244, Dakota, who is intersex, was humiliated at her workplace after the “M” marker on her license started a rumor that she was transgender, which even spread to local law enforcement. Ex. 8, West ¶33. Kyle was forced to leave a job when a supervisor retaliated against him by revealing his transgender status. Ex. 3, Koe ¶23. Before Cameron changed his license to “M,” a bartender in Nebraska saw the “F” on his ID and told him, “It would be a shame if another Brandon Teena case happened.” Cameron recognized the threat and left the bar. Ex. 1, Broyles ¶18. Brandon Teena—a transgender man who was raped and murdered in Nebraska in 1993—looms large in Daniel’s mind, too: his mother warned him “that something equally cruel and violent could happen if I pretended to be a boy.” Ex. 2, Doe ¶9, 19, 33.

Since SB 244, Plaintiffs have suffered professionally because of their compliance. Matthew was given the cold shoulder at a work conference after a colleague saw his SB 244-compliant driver’s license. Ex. 4, Moe ¶36. He is also afraid to call for roadside assistance again after being repeatedly misgendered when he needed help and had to show his license to prove his identity. *Id.* ¶31. On Cameron’s first day returning to a hospital job, five people asked him about his driver’s license: “One coworker specifically stated she had no idea I was transgender, so SB 244 directly caused me to be outed to her.” Ex. 1, Broyles ¶27.

Plaintiffs' lives are getting smaller because of the law. Cameron will not complete rental applications that require his license for fear of being outed and potentially discriminated against. *Id.* ¶31. Cameron has "heart palpitations, chest pain, insomnia, tension headaches, and hives," and he has "made contingency plans with trusted individuals to ensure my children could be picked up quickly if I were stopped by law enforcement and a situation escalated because of differing beliefs or perceptions related to my identity." *Id.* ¶28-29. Nicholas was too afraid to enter a liquor store to buy a gift for his girlfriend because he was not sure how the clerk would react to his license. Ex. 5, Noe ¶23. Every time Daniel shows his license, his mind races with the thought of all the transgender people who have been harassed or murdered because of being transgender. Ex. 2, Doe ¶33. Even when there is no threat of violence, Plaintiffs' licenses invite unwanted commentary: a ticket taker at an age-restricted event saw the "F" on Kyle's license and said "Oh, damn" when realizing Kyle is transgender. Ex. 3, Koe ¶24. Cameron fears a similar reaction to the discrepancy between his appearance and driver's license could prevent him from casting a ballot in the impending elections. Ex. 1, Broyles ¶31. As Nicholas explains, with an "F" on his license, "the person perceiving my [license] has the power to treat me however they want to treat me, and it's a gamble every time how they will react." Ex. 5, Noe ¶24.

These are common occurrences for transgender people, who experience incredibly high levels of discrimination and violence. Ex. 11, Scheim ¶23. Policies that require transgender people to use restrooms and hold identity documents consistent with their sex assigned at birth contribute to worsened mental health, in part because of harassment or ridicule, denial of service or access to facilities, or violence. *Id.* ¶17, 19, 21, 30. Transgender people as a whole experience discrimination and poor treatment specifically due to being forced to present identity documents that do not accurately reflect their gender identity. *Id.* ¶38. They are also more likely to experience problems

when interacting with security personnel. *Id.* ¶40. Policies that prevent transgender people from updating the gender marker on their driver’s licenses curtail access to services, employment, education, and social and electoral participation, while also increasing scrutiny of transgender people. *Id.* ¶39-41.

Being able to live in society in accordance with their gender identity is a critical determinant of health and well-being for transgender people. *Id.* ¶16. Transgender people experience lower rates of harassment, discrimination, and violence when they can use identity documents reflecting their gender. *Id.* ¶42-44; Ex. 2, Doe ¶35. Having a driver’s license with the correct gender marker is associated with fewer negative mental health outcomes. Ex. 11, Scheim ¶45-60. When transgender Kansans have legal identification that accurately reflects their gender identity, that opens opportunities for employment and education, improves mental health, and reduces incidents of misgendering or being singled out based on a perceived mismatch between gender presentation and identity documents. Ex. 6, Turpin ¶64-65.

Nonetheless, Defendant argues that SB 244 furthers government interests related to safety, privacy, vital records, medicine, and law enforcement. *See* Ex. 14, Def. State of Kans. ex rel Kris Kobach’s Supp. Rog. Resp. Nos. 3-5, 7, 9, 10, 11-13, and Ex. 15, AG’s Supp. RFP Resp. Nos. 3-4, 7, 8, 10, 11, 13. As discussed in Argument I.B, the factual record does not support that assertion.

ARGUMENT

A temporary injunction is warranted where the plaintiff shows (1) “a substantial likelihood” of “prevailing on the merits”; (2) “a reasonable probability” of “irreparable injury” absent an injunction; (3) the absence of an adequate alternative remedy to address the harm; (4) the threat of injury to the movant outweighs any harm to the opposing party; and (5) “the injunction will not be against the public interest.” *Hodes & Nauser, MDs, P.A. v. Schmidt*, 309 Kan. 610, 619 (2019) (*Hodes I*) (citing *Downtown Bar & Grill v. State*, 294 Kan. 188, 191 (2012)).

I. Plaintiffs Are Substantially Likely to Prevail on Their Individual Rights Claims

Section I protects the right “to shape, for oneself, without unwarranted governmental intrusion, one’s own identity, destiny, and place in the world.” *Hodes I*, 309 Kan. at 649. For transgender and intersex men and women, personal autonomy necessarily includes the ability to live and participate in society consistently with their identity as men and women. By barring transgender Kansans from receiving driver’s licenses or using restrooms consistent with their gender identity, SB 244 makes it difficult, if not impossible, for them to participate in the economic and social life of the State. Transgender Kansans must either completely forgo the use of public restrooms and of driver’s licenses, or they must use restrooms and carry and present identification that publicly declares transgender men to be women, and transgender women to be men. That forced disclosure of transgender status violates their privacy, makes them vulnerable to further harm, and demeans their dignity by coercing them into conveying a government message that negates their own identity as men and women. As applied to Plaintiffs, SB 244’s infringement on the right to personal autonomy, as well as informational privacy and freedom of speech, cannot survive strict scrutiny, or any lesser standard of review Defendant may argue applies.

A. SB 244 Infringes Plaintiffs’ Fundamental Right to Personal Autonomy

The Kansas Bill of Rights protects the personal autonomy of all Kansans—including Kansans who are transgender or intersex. Section 1 of the Kansas Bill of Rights provides that “[a]ll men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness.” Kan. Const. Bill of Rights, § 1. The “right of personal autonomy” is “[a]t the core of the natural rights of liberty and the pursuit of happiness” embodied in Section 1, and it “includes the ability to control one’s own body, to assert bodily integrity, and to exercise self-determination.” *Hodes I*, 309 Kan. at 646. Under this right, each Kansan is entitled “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).

In *Hodes I*, for example, the Kansas Supreme Court affirmed an injunction against a law restricting the most common method of second-trimester abortion. The Court recognized that “control over one’s own person” has long been understood to “stand[] at the heart of the concept of liberty,” *id.* at 640, and that the abortion restriction would have “severely limit[ed]” a pregnant woman’s autonomy by forcing her to “carry out a long-term course of conduct that [would] impact her health and alter her life,” *id.* at 646. The Court repeatedly emphasized that the autonomy right protected by Section 1 swept more broadly than decisions that solely pertain to bodily integrity, to include, for example, the right to make private, sensitive decisions about “family formation” and “family life.” *Id.* at 660; *see also id.* at 659 (appealing to the “Kansas constitutional value” of “[t]rue equality of opportunity in the full range of human endeavor”).

More recently, in *Hodes II*, the Kansas Supreme Court reaffirmed its earlier rationale in *Hodes I* and upheld a declaration of the law’s invalidity. *See Hodes & Nauser, MDs, P.A. v. Stanek*, 318 Kan. 995, 1034 (2024) (*Hodes II*). The Court also emphasized that, just as *Hodes I* arose in “the specific context of abortion,” courts considering whether the autonomy right applies in other contexts should “carefully examine[] and evaluate[] independently” any asserted application “in the context of its own unique implications.” *Id.* at 1013; *accord State v. Carr*, 314 Kan. 615, 628(2022) (applying a particularized approach in a challenge to capital punishment under Section 1’s right to life).

Gender identity is a core part of selfhood with “profound and unique attributes” that bring it within Section 1’s meaning of personal autonomy. *Hodes II*, 318 Kan. at 1006; *accord id.* at 1035 (Rosen J., concurring). Transgender and intersex people—like all other Kansans—have a personal autonomy right “to define and express their identity,” *Obergefell v. Hodges*, 576 U.S.

644, 651–52 (2015), which includes the autonomy of transgender (and intersex) men and women to live and participate in society consistently with their identity as men and women. A person’s “sexual identity” is a “characteristic that is so fundamental” that people “either cannot or should not be required to change it.” *Hernandez-Montiel v. I.N.S.*, 225 F.3d 1084, 1093 (9th Cir. 2000), *overruled on other grounds by Thomas v. Gonzales*, 409 F.3d 1177 (9th Cir. 2005).

By barring transgender and intersex Kansans from receiving driver’s licenses or using restrooms consistent with their gender identity, SB 244 makes it difficult, if not impossible, for them to participate in the economic and social life of the State. “Government issued identification documents are necessary to access public life.” *Kalarchik v. State*, 427 Mont. 333, 348 (2026); *accord Rigoberto S. J. v. Bondi*, No. 26-CV-957, 2026 WL 490104, *4 (D. Minn. Feb. 20, 2026) (“[I]dentification documents are not trivial pieces of paper, but instruments of liberty and personhood.”); *Chancellor v. Dozier*, 283 Ga. 259, 263 (2008) (recognizing that “continued possession of a driver’s license, once issued, may become essential in the pursuit of a livelihood”).

Restroom access is also a basic necessity. Urination and bowel movements are not optional, and people cannot stay long in spaces where they cannot use the restroom. The Kansas Legislature has already recognized as much: restrooms must be “available without cost or charge” in any private or public establishment open to the public and containing such facilities. K.S.A. § 65-1,110.

SB 244 requires that transgender and intersex Kansas either forgo these necessities of public life—including at work, for state employees—or use identification documents and public restrooms that are inconsistent with their gender identity. Far from protecting transgender and intersex Kansans’ ability to participate equally in society, requiring transgender or intersex men to use women’s restrooms and carry licenses identifying them as female—and requiring transgender or intersex women to use men’s restrooms and carry licenses identifying them as male—severely

impairs their ability to exercise self-determination and shape their own place in the world.

When transgender or intersex Kansans must show identification documents or use public restrooms inconsistent with their gender identity and presentation, they are forced to publicly reveal “private, sensitive personal information” about their transgender or intersex status, which is itself an infringement of their Section 1 rights. *K.L. v. State, Dep’t of Admin., Div. of Motor Vehicles*, No. 3AN–11–05431 CI, 2012 WL 2685183, *6 (Alaska Super. Ct. Mar. 12, 2012); *see Allegheny Reprod. Health Ctr. v. Pennsylvania Dep’t of Hum. Servs.*, 309 A.3d 808, 906, 913 (Pa. 2024) (interpreting similar rights clause to protect “the inherent right of an individual . . . to live a private life, . . . and to make important decisions free of government intrusion” and citing *Hodes I* for support).

Thus, “[e]ach time a person must produce identification”—or use a public restroom—that does not match the person’s identity, they are vulnerable—in a way a cisgender person is not—to suspicion of fraud or to invasive questioning about private, intimate details.” *Kalarchik*, 427 Mont. at 357 (Baker, J., concurring). Disclosure also exposes them “to a substantial risk of stigma, discrimination, intimidation, violence, and danger.” *Arroyo Gonzalez v. Rossello Nevares*, 305 F. Supp. 327, 333 (D.P.R. 2018); *accord Love v. Johnson*, 146 F. Supp. 3d 848, 856 (E.D. Mich. 2015). Even when that additional harm does not materialize, the possibility of harm burdens transgender and intersex Kansans with stress, anxiety, and fear as they go about their daily lives.

Plaintiffs’ experiences demonstrate these harms. Cameron cannot take his children to the local pool and has been repeatedly outed at work. Daniel sweats in fear because of scrutiny around his restroom use. Kyle can either use most of an hour finding a restroom or risk people staring, gasping, and blocking his exit if he uses the women’s restroom out of dire need. Matthew does not have time to reach a single-user restroom during classroom breaks when working as a teaching

assistant, and he is now too afraid to call for roadside assistance. Nicholas misses class to walk across campus for a restroom and was targeted for a mock pelvic exam after disclosing to an EMT instructor that SB 244 applied to him. Dakota has moved away from Kansas, her home. *See* Statement of Facts II.C, E.

Apart from these tangible harms, the law is a serious affront to Plaintiffs' dignity. Transgender and intersex men live their lives as men; transgender and intersex women live their lives as women. By design, SB 244 sends a message countermanding transgender and intersex Kansans' identity as men or women and defining them based on their birth-assigned sex. "To be forced to live under a state-mandated" sexual label—just like a "racial label"—"is inconsistent with the dignity of individuals in our society. And it is a label that an individual is powerless to change." *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 797 (2007) (Kennedy, J., concurring in part). Daniel is humiliated to carry a document that says "I am not really a man, or that I am less of a man." Ex. 2, Doe ¶23. It's a "kick in the gut" every time his license reminds Nicholas that Kansas thinks he is "wrong." Ex. 5, Noe ¶21.

Even worse, SB 244 conscripts these Kansans into carrying a message negating their identity every time they must show identification or use a public restroom. The Attorney General gets things backwards by characterizing Plaintiffs as claiming a "positive right" to "compel the government to put desired information on government documents." To drive a car, they must literally carry that government message on their persons and display it to state officials upon request. K.S.A. §§ 8-235, 8-262. Each time they do so, they transmit the State's message to "all the world" that their identity as men and women is "unworthy of . . . recognition." *United States v. Windsor*, 570 U.S. 744, 772 (2013); *Kerrigan v. Comm'r of Pub. Health*, 957 A.2d 407, 417 (Conn. 2008) (holding that "civil union" regime for same-sex couples violated the state's equal-

protection guarantee where it sent a “message” that such couples were “unworthy of the institution of marriage” and had an “inferior status”).

Being forced to convey that message “dishonors their dignity” and undermines their ability to “live a self-directed life in the same fashion as a cisgender” Kansan. *Kalarchik*, 427 Mont. at 357 (Baker, J., concurring). Forcing Cameron, Daniel, Kyle, Matthew, and Nicholas to carry licenses that say “F” means forcing them to state that anyone trying to identify them must see them as women. The same is true for Dakota: the “M” forces her to explain that she is intersex.

B. SB 244 Fails Strict Scrutiny or Any Other Standard of Review

Plaintiffs challenge SB 244, on its face and as applied to them, with respect to licenses and restrooms only. SB 244 cannot satisfy any standard of review that could possibly apply to their personal autonomy claim. As an initial matter, strict scrutiny applies to review a statute that infringes on a fundamental right to personal autonomy. *See Hodes I*, 309 Kan. at 663 (applying strict scrutiny to law burdening right to personal autonomy). It is the State’s burden “to prove (a) the existence of a compelling government interest, (b) its actions further that compelling interest, and (c) its actions do so in a way that is narrowly tailored.” *Hodes II*, 318 Kan. at 1005. And even under the standard of review proposed by the *Hodes I* dissent—“rational basis with bite”— courts must “look to the actual legislative record rather than to hypothetical reasons or any possible imagined rationale.” *Hodes I*, 309 Kan. at 766 (Stegall, J., dissenting); *see also Farley v. Engelken*, 241 Kan. 663, 672 (1987) (recognizing, in Section 1 challenge to medical malpractice law, that a “higher standard of review than the rational basis test” applied). SB 244 cannot possibly survive any form of constitutional review.

i. The Restroom Ban does not further women’s safety or privacy

The Restroom Ban does not increase safety or privacy in public restrooms. With respect to safety, Defendant Kansas Department of Administration (“KDOA”) is not aware of any instances

of dangers to the safety of women and girls, or instances of abuse, harassment, violence, crimes, misconduct, damage, or harm, caused by transgender or intersex individuals in restrooms under its control. Ex. 16, KDOA RFP Resp. Nos. 3-4; Ex. 10, KDOA Rog. Resp. Nos. 10-11. That is unsurprising. As Plaintiffs’ expert witness Dr. Cynthia Calkins (a clinical forensic psychologist and associate professor who studies sex crimes) explains, restrooms are not significant or even common locations for sexual assaults. Ex. 17, Calkins ¶¶29, 32-33. There is no evidence that transgender people are part of any trend in such assaults. *Id.* ¶36. If anything, transgender people are overrepresented among victims of crimes, *Id.* ¶¶37-39, and are uniquely likely to experience harm when forced to use restrooms according to their sex assigned at birth instead of their gender identity. Ex. 11, Scheim ¶¶18, 25-26; Ex. 6, Turpin ¶72.

With respect to privacy, people have no reason to know whether someone in the restroom with them is transgender or intersex. Ex. 1, Broyles ¶30; Ex. 2, Doe ¶¶19, 41; Ex. 3, Koe ¶40; Ex. 4, Moe ¶ 41; Ex. 5, Noe ¶¶13, 43; Ex. 6, Turpin ¶¶41, 45. Nudity is not a feature of restroom use, and Plaintiffs do not challenge SB 244’s restrictions on locker rooms, changing rooms, or showers. *Cf. Roe v. Critchfield*, 137 F.4th 912, 924-26 (9th Cir. 2025) (rejecting facial challenge to ban that included changing rooms and locker rooms but distinguishing a narrower challenge limited to restrooms because “[c]ommon sense tells us that the communal restroom is a place where individuals act in a discreet manner to protect their privacy and those who have true privacy concerns are able to utilize a stall.”).

To support the claim that excluding transgender people from public restrooms protects personal safety and privacy, Defendant relied on Dr. James Cantor, a psychologist who works on human sexuality. Ex. 18, Cantor Dep. 13:21-14:3. But Dr. Cantor admitted “we don’t have the kind of evidence that would allow us to make that kind of a statement, that transgender people are

– by virtue of being transgender are a greater danger.” *Id.* 120:8-13, 121:14-123:3. He further admitted there is no evidence of elevated risk from transgender men using men’s restrooms (*Id.* 135:15-136:17) and admitted no studies show transgender women using women’s restroom increased voyeurism, harassment, or sexual assault. *Id.* 202:8-17, 204:7-22, 205:2-20. And none of Dr. Cantor’s (unsupported) opinions regarding transgender individuals apply to intersex individuals. *Id.* 215:1-24. Dr. Cantor testified that non-transgender people’s privacy concerns about transgender individuals’ access to single-sex spaces are attenuated when there is no nudity. *Id.* 153:11-155:7.

Defendants’ fact witnesses did not demonstrate any safety or privacy risks from transgender people in restrooms. Three witnesses had concerns specific to K-12 schools, mostly locker rooms. *See e.g.*, Ex. 21, Boe ¶3. Sally Soe and Tim Turner had no personal experiences with transgender people in public restrooms and transferred their children to different schools to avoid the possibility of using facilities with transgender students. Ex. 19, Soe ¶5-8; Ex. 20, Turner ¶9. Turner admitted his daughter was never in the restroom at the same time as her transgender classmate. Ex. 20, Turner ¶3-5. Defendant’s only fact witness to personally encounter a transgender person in a restroom was Jane Doe, when she worked in the State Capitol. Ex. 22, Jane Doe ¶2, 4, 10-11. While Jane Doe testified that encountering a transgender woman left her with a “sense of disbelief”, she admitted she had no interaction with the individual; they did not even speak to each other. *Id.* ¶7-8.

ii. The License Restriction does not further law enforcement interests

The Kansas Court of Appeals has already considered and rejected purported law enforcement rationales behind restricting driver’s licenses. *Harper*, 65 Kan. App. 2d at 696-701, *review denied* (Sept. 29, 2025). Again, here, none of Defendant’s law enforcement witnesses—Robert Jacobs, the director of the Kansas Bureau of Investigation; Sheriff Brian Hill of Shawnee

County; and Sgt. Bryan Stammer of Ford County—were unable to do their jobs or serve the public because a transgender person had their gender identity on their driver’s license. Ex. 14, Def. AG’s Supp. Rog. Resp. Nos. 15, 19, and 30.

Director Jacobs claimed the “use of biological sex as a data point is the most consistent and accurate way of documenting gender on a law enforcement record,” Ex. 23, Jacobs ¶15, but then admitted that in the totality of his law enforcement experience he could not identify any problems in law enforcement which resulted from a transgender person changing the gender marker on their driver’s license. Ex. 24, Jacobs Dep. 42:6-11.

Sheriff Hill claimed that law enforcement must have a “historically accurate record of an individual’s gender” to identify suspects, but admitted that fingerprinting remains the ultimate method of identification used by law enforcement. Ex. 25, Hill ¶12-14. Sheriff Hill had no personal knowledge of any instance where a transgender person evaded arrest because of the gender marker on their driver’s license, nor could he identify any instance where law enforcement officers had been unable to effectively determine a suspect’s identity based on their driver’s license gender marker. Ex. 26, Hill Dep. 54:15-56:8. Sheriff Hill also admitted that as a sheriff he had little concern about transgender individuals’ licenses. *Id.* at 33:4-12. Indeed, during the only incident he could recall where a purportedly transgender person committed a crime, viewing the sex assigned at birth on the driver’s license would have made no difference. *Id.* at 72:16-20.

Sgt. Stammer claimed that before SB 244, driver’s licenses might have had inaccurate information about a suspect’s sex, Ex. 27, Stammer ¶6, but he admitted that he could not identify a specific incident where a transgender person’s driver’s license reflecting their gender identity prevented him from being able to do his work as a law enforcement officer. Ex. 28, Stammer Dep. 40:09-42:08. He claimed that using birth sex on a driver’s license was important to avoid

allegations of improper search techniques against law enforcement officers, Ex. 27, Stammer ¶11, but then admitted that a transgender person's gender identity appearing on their driver's license never caused such a problem, and officers routinely pat down people regardless of sex, even if they use different techniques. *Id.* ¶8-9, 12; Ex. 28, Stammer Dep. 56:24-58:18, 61:1-62:9, 62:10-63:1. Defendant's expert Dr. Cantor also admitted that he is unaware of any research about harm to others from transgender people using licenses with their gender. Ex. 18, Cantor Dep. 174:17-175:7.

None of the State's witnesses explained how the sex marker on a driver's license ensures accurate identification, especially in an age where fingerprinting, DNA testing, and facial recognition software proliferate. Nor can they. In fact, as Plaintiffs' rebuttal expert Sgt. Liz Donegan (a retired 26-year veteran of the Austin Police Department and former leader of both a sex crimes unit and a sex offender apprehension and registration unit) explains, requiring birth sex on a license hampers identification efforts because licenses reflect people as they are now, not as they were in the past, and identification is based on appearance. Ex. 29, Donegan ¶16, 22-23. And pat downs are limited, safety-driven searches for weapons; proper technique does not include checking a license. *Id.* ¶43-46.

Law enforcement identifies people by appearance, not birth sex. *Id.* ¶22-23. But SB 244 does not require KDOR to set up a scale to confirm weight, a ruler for height, or a color wheel for hair and eyes. That information remains self-reported. SB 244 regulates only the gender marker, singling out only transgender and intersex licensees. Plaintiffs' experiences and other reports since SB 244 went into effect demonstrate the confusion and discomfort that can occur when law enforcement tries to match a transgender person to a license with their birth sex and not gender identity. Ex. 1, Broyles ¶17; Ex. 3, Koe ¶15; Ex. 29, Donegan ¶27. It is only when their licenses

reflected their birth sex that Plaintiffs had trouble proving their identity or faced additional scrutiny during private commercial transactions. Ex. 1, Broyles ¶24; Ex. 3, Koe ¶16; Ex. 8, West ¶36-37.

iii. *The License Restriction does not further an interest in accurate vital records*

Plaintiffs do not challenge the State’s ability to maintain information about their sex assigned at birth, just the requirement that such information appear on the face of their licenses. “At issue in their challenge, however, is the Plaintiffs’ need for documents of *identification*, not the original birth record.” *Kalarchik*, 427 Mont. at 358 (2026) (Baker, J., concurring). KDOR and other agencies can continue to collect and maintain records of birth sex, as they did before SB 244. Ex. 7, KDOR Rog. Resp. No. 11. Historical records of birth sex can be maintained in databases, separate from the marker on the face of a license. Ex. 30, KDOR RFP Resp. Nos. 14, 26. SB 244 does not solve an existing problem with respect to vital records. Ex. 29, Donegan ¶49-50.

iv. *The License Restriction does not further medical interests*

Defendant’s expert witness Dr. Alyson McGregor (a South Carolina emergency medicine doctor) claimed that “biological sex” on a driver’s license “serves a real clinical purpose.” Ex. 31, McGregor p.3. But a sex marker doesn’t tell a doctor about someone’s anatomy or hormones: the sex on a license implies a constellation of traits that may or may not be present. Ex. 32, McGregor Dep. 133:14-134:4. While she believes that doctors should know a patient’s sex and gender identity, Dr. McGregor conceded that the source of that information does not matter so long as it is reliable, and transgender patients nonetheless have a right not to disclose their transgender status. *Id.* at 159:16-161:8, 175:21-177:9, 184:18-185:21. As Plaintiffs’ rebuttal expert Dr. Kaitlyn Finneran (an emergency medicine attending physician and clinical instructor at University Health-TMC Department of Emergency Medicine/University of Missouri-Kansas City School of Medicine) explains, a license does not provide doctors with information that is more valuable than

patient examination, patient report, or an electronic medical record. Ex. 33, Finneran ¶22.

Dr. McGregor also claimed that “biological sex” must be tracked separately from gender identity as a diagnostic or research variable. Ex. 31, McGregor p.5. But the marker on a license does not further those data collection interests, and she acknowledges that “biological sex” and gender are interrelated. Ex. 32, McGregor Dep. 138:5-139:12. Dr. McGregor does not consider any one aspect of sex to be determinative for intersex people and does not know how they should be classified under the statutory definition of “biological sex.” *Id.* at 136:14-138:3. 197:10-22. That is why doctors refer to “sex assigned at birth” instead of “biological sex,” which is an imprecise term because multiple facets of sex do not align for a small but significant portion of the population. Ex. 6, Turpin ¶30, 35, 68.

v. The asserted state interests are pretextual

The State’s purported interests are unfounded and pretextual. The Restroom Ban and License Restriction serve only one purpose: to force transgender and intersex people to live as their birth sex, or to remove themselves from public life entirely. Cameron and the other transgender plaintiffs cannot use women’s restrooms, just as intersex women like Dakota cannot use men’s restrooms. Their SB 244 compliant licenses do not make it easier to identify Plaintiffs as themselves but rather mark them as transgender or intersex. These are not unintended consequences: the purpose of the law is to ensure that transgender and intersex people are readily identifiable based on their status, and if they are unwilling to subject themselves to that scrutiny, they can either avoid public places or leave Kansas entirely. *See* Statement of Facts, II.C, II.E.

C. SB 244 Violates Plaintiffs’ Fundamental Rights to Privacy

SB 244 also violates Plaintiffs’ fundamental right to privacy under Article I, Section 1, of the Kansas Bill of Rights. While privacy is encompassed within the Section 1 protection for personal autonomy, SB 244 specifically infringes this independent protection.

The Kansas Supreme Court has long recognized a federal right of informational privacy. *See Alpha Med. Clinic v. Anderson*, 280 Kan. 903, 919–22 (2006); *Tiller v. Corrigan*, 286 Kan. 30, 47–48 (2008). While the state’s constitutional provisions, at minimum, “echo federal standards,” *Alpha Med. Clinic*, 280 Kan. at 920, state constitutions’ inherent or natural rights provisions generally provide more protection, not less. *See Hodes I*, 309 Kan. at 621–22 (applying strict scrutiny to law infringing on Section 1 personal autonomy right); Anthony B. Sanders, *Social Contracts: The State Convention Drafting History of the Lockean Natural Rights Guarantees*, 93 UMKC L. Rev. 641, 661–679 (2025) (canvassing rights protected under such clauses).

Article I, Section 1, should be read as offering independent protection for a fundamental right to informational privacy, to which strict scrutiny applies. *See, e.g., Jegley v. Picado*, 80 S.W.3d 332, 347–50 (Ark. 2002) (holding that state constitution protected “a fundamental right to privacy” flowing from the state’s inalienable rights of “life and liberty” and “pursuing . . . happiness”); *Powell v. State*, 510 S.E.2d 18, 21 (Ga. 1998) (recognizing a right to privacy stemming from the state constitution’s due process guarantee). This understanding of Section 1 is consistent with *Hodes I*, which referred to “the right to be let alone” as “the most comprehensive of rights and the right most valued by civilized men.” *Hodes I*, 309 Kan. at 642 (quoting *Olmstead v. United States*, 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting)). That is reinforced by history: for well over a century, the tort of invasion of privacy has protected Kansans from intrusion upon their “private affairs or concerns” and from publicity of “matters concerning [their] private” lives. *Dotson v. McLaughlin*, 216 Kan. 201, 206–08 (1975).

SB 244 violates this privacy right by forcing Plaintiffs to disclose private, personal information about being transgender or intersex whenever they present a license for identification or need to use a restroom in public buildings. *See* Statement of Facts Section II.C, II.E; Argument

I.B; *cf. K.L.*, 2012 WL 2685183 at *6 (holding that requiring transgender Alaskans to carry driver’s licenses that disclose their transgender status violates Alaska’s right to privacy).

D. SB 244 Violates Plaintiffs’ Right to Freedom from Compelled Speech

SB 244 violates Plaintiffs’ right to free speech under Article I, Sections 1 and 11 of the Kansas Bill of Rights. Expressive harms are also within Section 1’s protections for personal autonomy, but SB 244 violates the independent protection in Section 11.

Kansans have a broad Section 11 right to “freely speak, write or publish their sentiments on all subjects, being responsible for the abuse of such rights.” Kan. Const. Bill of Rights, § 11. This right is, at a minimum, “coextensive with the First Amendment.” *League of Women Voters of Kan. v. Schwab*, 318 Kan. 777, 787 (2024). So, as is true under federal law, Section 11 protects “the decision of both what to say and what not to say.” *Riley v. Nat’l Fed’n of the Blind of N.C., Inc.*, 487 U.S. 781, 797 (1988). The right ensures that a person need not communicate or disseminate a message with which they disagree. *See Wooley v. Maynard*, 430 U.S. 705, 715 (1977) (striking a law affixing the state motto to license plates because drivers could not be compelled to “use their private property as a ‘mobile billboard’ for the State’s ideological message”); *see also Pac. Gas & Elec. Co. v. Pub. Utils. Comm’n of Cal.*, 475 U.S. 1, 9–12 (1986) (reviewing cases).

And Section 11 sweeps even more broadly than the First Amendment. Unlike the First Amendment, which is framed solely as a restraint on government, Section 11 guarantees Kansans an affirmative right to “freely speak, write, or publish their sentiments on all subjects.” Kan. Const. Bill of Rights, § 11. The word “freely” reflects the principle of individual control over one’s own speech. And “their sentiments on all subjects” makes clear that Section 11 protects a person’s ability to speak their own mind, rather than express the beliefs of the state, on the widest possible range of issues. *See Gerawan Farming, Inc. v. Lyons*, 12 P.3d 720, 750–52 (Cal. 2000) (addressing

implications for this same language on compelled speech doctrine).

SB 244 infringes the speech rights of transgender and intersex Kansans by forcing them to convey their birth sex as an identity diametrically opposed to what they know themselves to be. That licenses are government-issued is inapposite: Even assuming they qualify as government speech, they still “implicate the free speech rights of private persons.” *Walker v. Tex. Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 219 (2015). Were it otherwise, for example, the State could require that individuals carry licenses that identify their political party without scrutiny under Kansas’s free-speech guarantee. Like the law struck down in *Wooley v. Maynard*, which required drivers to display the motto “Live Free or Die” on their license plates, SB 244 “forces an individual, as part of his daily life . . . to be an instrument for fostering public adherence to an ideological point of view he finds unacceptable.” 430 U.S. at 15 (internal quotation marks omitted). This message, combined with Plaintiffs’ gender identity, discloses that they are transgender or intersex, including to those hostile to them. *See* Statement of Facts II.C, E; Argument I.B.

E. SB 244 Violates the Kansas Constitution’s Equal Protection Guarantee

SB 244 also triggers heightened scrutiny under the equal protection guarantee of Section 2 of the Kansas Bill of Rights. In the context of gerrymandering claims, the Kansas Supreme Court held in *Rivera v. Schwab*, that the Kansas Constitution’s equal protection guarantee is grounded in Section 2 of the Kansas Bill of Rights and is generally “coextensive with the equal protection guarantees afforded under the Fourteenth Amendment to the United States Constitution.” 315 Kan. 877, 893 (2022). The Kansas Supreme Court has not had an opportunity to decide whether those protections are coextensive with respect to discrimination based on sex and transgender status, nor has it held that Kansas courts must “lockstep” with federal courts in applying any given equal-protection standard to particular factual scenarios. Any such lock-stepping would be inconsistent with the text, structure, and history of Section 2, and the obligation of the Kansas judiciary to

interpret and apply the constitution that Kansans adopted. *See State v. Albano*, 313 Kan. 638, 644-45 (2021); *State v. Lawson*, 296 Kan. 1084, 1090-92 (2013). (To the extent that *Rivera v. Schwab* could be read to require such lock-stepping, Plaintiffs preserve for appeal an argument that *Rivera* should be overruled or limited to its specific facts.) But even if Section 2 mirrored federal law in all respects, SB 244 would still be unconstitutional.

The License Restriction and the Restroom Ban are subject to heightened equal protection scrutiny because they facially discriminate based on sex and transgender status and were motivated, at least in part, by their specific impact on transgender people. *See Stephenson v. Sugar Creek Packing*, 250 Kan. 768, 775-77 (1992) (heightened scrutiny for gender-based classifications); *In re K.M.H.*, 285 Kan. 53, 73-75 (2007) (heightened scrutiny for sex-based differences even when biological differences exist); *Bostock v. Clayton County, Ga.*, 590 U.S. 644, 660 (2020) (“it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex”). Under heightened scrutiny, the State has the burden of showing an important or compelling justification for a challenged law and a close fit between the law and that justification. *See Stephenson*, 250 Kan. at 775-77. But even under rational basis review, a statute (1) “must implicate legitimate goals” and (2) “the means chosen by the legislature must bear a rational relationship to those goals.” *State v. Limon*, 280 Kan. 275, 288 (2005). This ensures that “classifications are not drawn for the purpose of disadvantaging the group burdened by the law.” *Id.* (quoting *Romer v. Evans*, 517 U.S. 620, 632 (1996)).

For all the same reasons why SB 244 cannot survive and standard of scrutiny under Section 1 of the Kansas Bill of Rights, it cannot survive any standard of scrutiny under Section 2 either.

F. SB 244 Violates the Kansas Constitution’s Single-Subject and Clear-Title Rule

SB 244 is unconstitutional for the additional reason that it violates Article II, Section 16, which provides that “[n]o bill shall contain more than one subject,” and “[t]he subject of each bill

shall be expressed in its title.” Kan. Const. art. II, § 16. SB 244 “contains more than one subject,” so it is “invalid in its entirety.” *State ex rel. Stephan v. Thiessen*, 228 Kan. 136, 144 (1980).

Section 16 was designed to prevent “logrolling,” which is the practice of combining “unrelated proposals and present[ing] them as separate provisions of one bill.” *Kansas One-Call Sys., Inc. v. State*, 294 Kan. 220, 226 (2012) (citing *Garten Enters., Inc. v. City of Kan. City*, 219 Kan. 620, 622 (1976)). It helps ensure that the “legislature and the public may be fairly informed as to what [a bill] embraces.” *State v. Roseberry*, 222 Kan. 715, 716 (1977). In a Section 16 challenge, the Kansas Supreme Court considers whether a statute’s provisions are sufficiently related to one another and to the bill’s “umbrella” category, as stated in the title’s “concerning” clause. *See, e.g., Kansas One-Call Sys., Inc.*, 294 Kan. at 227-28. But “[w]here an act contains two separate and independent subjects, having no connection with each other, and the title to the act is broad enough to cover both,” the act is generally “unconstitutional and void.” *Thiessen*, 228 Kan. at 143 (quoting *State v. Barrett*, 27 Kan. 213, 218–20 (1882)). Otherwise, the single-subject rule would be “utterly without force.” *State v. Sholl*, 58 Kan. 507, 507 (1897).

Kansas precedent illuminates Section 16’s sweep. The Legislature can, by a single act, create a complete code of criminal procedure, but it cannot “lawfully . . . unite[]” provisions on criminal procedure with provisions on a law enforcement training center “under the broad title ‘crimes.’” *Thiessen*, 228 Kan. at 143. A broad title like “[a]n act relating to motor vehicles” cannot be used to cover both “the licensing of operators and chauffeurs of motor vehicles” and “defining the liability of certain persons for negligence” in the operation of motor vehicles. *Cashin v. State Highway Comm’n*, 22 P.2d 939, 938–40 (Kan. 1933). The concept of “repeal” cannot connect registering cars with censoring motion pictures. *State ex rel. Fatzer v. Shanahan*, 178 Kan. 400, 403–404 (1955). And a bill with a title regarding the “manufacture and sale of intoxicating liquors”

cannot also regulate the use of those liquors, where “use” is not in the title. *Barrett*, 27 Kan. at 218–21.

In this case, SB 244 violates Section 16 because it encompasses at least two separate subjects: (1) identifying a person’s “biological sex” at birth on government identification documents, and (2) designating private spaces in public buildings for use by a single sex. These multiple subjects appear 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. Kan. Const. art. II, § 16. These two subjects are conceptually and practically unrelated. To state the obvious, designating a person as a particular sex on an identification document is different from restricting restrooms or private spaces. In addition, SB 244’s provisions regulating public buildings fall outside the scope of the bill’s “concerning” clause, which describes SB 244 as an act “concerning identification of biological sex.” Defendant agrees that this is SB 244’s stated subject for purposes of Section 16 analysis. *See* State Resp. to TRO Mot. 30. One would have to twist the meaning of “identification” to read the building provisions—including the associated criminal and civil enforcement mechanisms and penalties—as falling into that category. And to the extent “identification of biological sex” in SB 244’s title could theoretically sweep as broadly as restroom regulation, it could just as well encompass rules requiring hunters to identify the biological sex of a pheasant. *See, e.g.,* Kan. Admin. Regs. § 115-3-1(g). Thus, even granting for the sake of argument the State’s claim that SB 244 has only one subject, SB 244 violates Section 16’s clear-title rule because it is impermissibly vague. *State ex rel. Dole v. Kirchner*, 182 Kan. 622, 625 (1958).

SB 244 cannot be justified on the ground that its subject is transgender people in light of Defendant’s attempts to argue that SB 244 is facially neutral. Arguing that the License Restriction

and Restroom Ban were combined in a single statute because they share the common purpose of regulating transgender people is tantamount to an admission that the law must be analyzed as a classification based on transgender status passed “‘because of,’ not merely ‘in spite of,’ its adverse effects.” *Pers. Adm’r of Massachusetts v. Feeney*, 442 U.S. 256, 279 (1979). And just as bare legislative animus toward a disfavored group cannot qualify as a legitimate state interest for equal protection analysis, *see U.S. Dep’t. of Agric. v. Moreno*, 413 U.S. 528, 534 (1973), it cannot serve as a unifying “subject” that connects otherwise disparate parts of a bill.

Just as SB 244’s text demonstrates a Section 16 violation, so too does its legislative history, which courts examine. *See Sholl*, 49 P. at 668–69; *Cashin*, 22 P.2d at 940–41. For example, in holding that the “crimes” bill described above violated Section 16, the Kansas Supreme Court considered the bill’s history. *Thiessen*, 228 Kan. at 140–42. The two areas covered by the bill—criminal procedure and a law enforcement training center—were initially separate bills. *Id.* at 140. After one bill was defeated in the state senate, provisions from both bills were merged and given a new title. *Id.* The Court quoted a letter from the Governor explaining why he did not sign the bill, in part because a “totally different subject was attached to [the bill] by amendment,” and he criticized the use of floor amendments to “materially change an original purpose of a bill or to add to a proposal new material which is not germane to its original and basic substance.” *Id.* at 141. The Court likewise noted the Governor’s observation that such procedures have a “tendency to subvert the orderly legislative process” by avoiding steps “appropriate to the refinement of a legislative proposal,” by “limiting the voting options” of legislators, and by curtailing “executive options constitutionally granted to the governor.” *Id.*

With SB 244, the Kansas Legislature circumvented the ordinary legislative process to combine two disparate bills without meaningful opportunities for legislative debate or public

comment. *See* Statement of Fact II.A. Like traditional logrolling, these “railroad job” tactics—combining disparate provisions, introducing them with little notice, and using an unrelated, gutted Senate bill as a vehicle—distorted the legislative process to expedite a bill’s passage and minimize opposition. SB 244’s procedural defects are certainly more extreme than the “ever increasing use of the floor amendment” bemoaned in *Thiessen*. 228 Kan. at 141. While SB 244’s text alone dooms the bill under Section 16, its history confirms its fate.

II. The Court Should Issue a Temporary Injunction

A. Plaintiffs Satisfy the Remaining Factors for a Temporary Injunction

Plaintiffs have suffered and are continuing to suffer irreparable injury under SB 244. Only a temporary injunction can address their constitutional, dignitary, and actual harms. *Hodes I*, 309 Kan. at 619. Plaintiffs need only show a “reasonable probability of irreparable future injury or harm,” *Bd. of Cnty. Comm’rs of Leavenworth Cnty. v. Whitson*, 281 Kan. 678, 684 (2006) (internal quotation marks omitted); *see also Steffes v. City of Lawrence*, 284 Kan. 380, 395 (2007), and the deprivation of a constitutional right is itself irreparable. *Trust Women Found. Inc. v. Bennett*, No. 121,693, 2022 WL 1597011, *7 (Kan. Ct. App. 2022). Plaintiffs are experiencing and will continue to experience these harms every day that SB 244 remains in effect. *See* Statement of Facts I.C, E.

Plaintiffs’ threatened injuries outweigh Defendants’ potential harm; an injunction is not against the public interest. *Hodes I*, 309 Kan. at 619 (2019). Defendants “face little, if any, injury from issuance of an injunction, which will impose no affirmative obligations and will preserve the *status quo*,” *Hodes Temp. Inj.*, No. 2015CV000490, 2015 WL 13065200, *5 (Kan Dist. Ct. June 30, 2015), which is “the last actual, peaceable, noncontested position of the parties which preceded the pending controversy.” *State v. Alston*, 256 Kan. 571, 579 (1994). The “public’s interest in not suffering a potential constitutional limitation is served more by maintaining the status quo than by permitting a law which may be unconstitutional to go into effect.” *Hodes Temp. Inj.*, at *5.

B. Injunctive Relief Must Issue to Remedy the Constitutional Violations

The Court should enjoin SB 244 as a whole on single-subject and clear-title grounds. A law containing multiple subjects is generally “invalid in its entirety.” *Thiessen*, 228 Kan. at 144; *see also Cashin*, 137 Kan. at 744 (stating the “general rule” that “both portions of the act fall together and are treated as void”). Only where “it is apparent” that certain provisions “furnished no inducement to pass the other part” may a court consider invalidating only part of a logrolled bill. *Cashin*, 137 Kan. at 744. The slapdash legislative process leading to SB 244’s enactment precludes such partial invalidation. Because complete invalidation would be the ultimate remedy after judgment, a broad temporary injunction is warranted under the facts of this case.

If the Court does not enjoin SB 244 on single-subject grounds, then Court should still issue a statewide injunction for Plaintiffs’ individual rights claims. Specifically, with respect to the licenses, the Court should enjoin SB 244 so that the statute no longer stands as a barrier to the use and issuance of licenses consistent with KDOR’s preexisting policy on sex/gender markers, which would have remained valid but for SB 244. For the restroom provisions, the Court should enjoin SB 244 from being enforced to prohibit transgender and intersex individuals from using multiple-occupancy restrooms consistent with their gender identity.

In deciding whether to issue a facial injunction, 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). Here, this Court can and should look to the group of people for whom SB 244 alters the status quo, meaning transgender and intersex people whose gender identity differs from their sex assigned at birth. Because SB 244’s provisions violate their autonomy, equality, privacy, and speech rights, a statewide injunction is proper.

CONCLUSION

Plaintiffs respectfully request this Court enter the proposed Temporary Injunction Order.

Respectfully submitted, this 17th day of July, 2026.

By: /s/ Doug Dalglish

Doug Dalglish, KS Bar 22328
STINSON LLP
1201 Walnut Street
Suite 2900
Kansas City, MO 64106
Tel: (816) 961-3122
doug.dalglish@stinson.com

Jessica Swonger, KS Bar 31215
**AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF KANSAS**
10561 Barkley St., Suite 500
Overland Park, KS 66212
Tel: (913) 303-3641
Fax: (913) 490-4119
jswonger@aclukansas.org

**AMERICAN CIVIL LIBERTIES UNION
FOUNDATION**

Harper Seldin*
Josh Block*
Chase Strangio*
125 Broad St.
New York, NY 10004
hseldin@aclu.org
jblock@aclu.org
cstrangio@aclu.org

Julie A. Murray*
Aditi Fruitwala*
Dena Robinson*
Eleanor Matheson*
915 15th Street NW
Washington, DC 20005
jmurray@aclu.org

afruitwala@aclu.org
drobinson@aclu.org

Lillian Moore-Eissenberg*
425 California Street, Suite 700
San Francisco, CA 94104
lmoore-eissenberg@aclu.org

BALLARD SPAHR LLP

Jason Leckerman*
Elizabeth Lilly*
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599
(215) 864-8266
leckermanj@ballardspahr.com
lillye@ballardspahr.com

Heather St. Clair*
601 SW 2nd Ave #2100, Portland, OR 97204
(503) 778-2100
stclairh@ballardspahr.com

Jocelyn Sitton*
1800 Larimer Street, Suite 1600
Denver, CO 80202
(303) 299-7353
sittonj@ballardspahr.com

Antonia Gales*
1301 2nd Ave #2800, Seattle, WA 98101
(206) 223-7000
galesa@ballardspahr.com

*Admitted *Pro hac vice*

ATTORNEYS FOR PLAINTIFFS