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**Testimony of Attorney General Kris Kobach  
Proponent for HB 2426  
House Committee on Judiciary  
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Chairman Humphries and Members of the Committee,

Thank you for the opportunity to provide testimony in support of House Bill 2426.

Background

This bill is very short, and its purpose is very simple—to correct an error committed by the Kansas Court of Appeals, and to restore the Legislature’s intent. The Court of Appeals defeated the legislative intent of SB 180, also known as the Women’s Bill of Rights, which stated that in Kansas law and in Kansas governmental documents “sex” means biological sex at birth. The Court of Appeals twisted the meaning of SB 180 so that it does essentially nothing.

In *State of Kansas ex rel. Kobach v. Harper*, my office represented the state in enforcing Senate Bill 180. The case involved whether the Kansas Department of Revenue could continue allowing changes to gender markers on driver's licenses that contradicted an individual’s biological sex at birth. I personally argued the case in the Shawnee County District Court, which ruled correctly and held that the Department was violating the law when it continued to allow changes to driver’s licenses. The plain language of the bill was not difficult to discern.

However, that all changed when the decision was appealed to the Kansas Court of Appeals. On June 13, 2025, the court issued its decision. In it, three judges bent over backward to find ways to twist the meaning of the statute so that it essentially had no

effect whatsoever. Wherever there was any possible ambiguity in a sentence, the Court of Appeals jumped on it to twist the meaning of the law.

One example illustrates just how absurd the court's reasoning was. On the final page of the bill, you will see that the word "only" is added to the following sentence: "Any ... state agency ... that collects vital statistics ... shall *only* identify each individual who is part of the collected data set as either male or female at birth." Any person familiar with the English language can see that the word "only" is not strictly necessary. But the Court of Appeals agreed with the claim that "nothing prevents the KDOR's data set from both identifying an individual as male or female at birth and identifying them differently on the physical driver's license." 65 Kan. App. 2d 707. If that were true, then that section of the bill would serve no purpose whatsoever.

That was only one of several clear errors of interpretation committed by the court. Our agency hoped that the error by the Court of Appeals would be corrected by the Kansas Supreme Court when it reviewed the case. However, on September 29, 2025, the Kansas Supreme Court surprised observers by taking the unusual step of declining to take the case. As a result, the preliminary injunction imposed by the district court was lifted on October 8, 2025. Thereafter, KDOR resumed its practice of allowing sex changes on Kansas driver's licenses. KDOR has not published the number, but it is likely that hundreds of licenses have been changed since then.

#### How the bill restores the Legislature's intent

This bill addresses the court's error by (1) removing any wiggle room in the wording of the statute, thereby preventing any activist court in the future from changing its meaning again, and (2) by mandating the invalidation and correction of driver's licenses (and birth certificates) issued prior to July 1, 2026, that identify sex or gender contrary to the biological sex at birth. By doing so, it restores uniformity and accuracy to state-issued documents.

In addition to adding the word "only" to the final section of SB 180, the bill also makes clear that in Kansas statutes, "sex" and "gender" have always been used interchangeably. This corrects another error of the court, which claimed that in the area of driver's licenses (where the statute uses the term "gender" to match federal law, but the physical licenses use the term "sex") the Legislature may have intended to allow changes to continue.

## Additional benefits

By clarifying the law, this bill will end litigation that would otherwise continue for several more years. This litigation would needlessly consume hundreds of attorney-hours of work and would take up the time and energy of Kansas courts.

More importantly, the bill restores and protects the intentions of the Kansas Legislature when it passed SB 180 in 2023. Our experience in defending the state in Harper underscores the real-world implications

- Law enforcement relies on accurate identification documents for public safety. Inconsistent gender markers on driver's licenses can complicate interactions during traffic stops, in the execution of arrest warrants, and in correctional facilities, where correct biological sex information is essential.
- Vital statistics, used for public health and demographic data, must be grounded in objective biology and history to maintain reliability. This bill ensures that Kansas collects and maintains data identifying individuals as male or female at birth without compromising factual accuracy.

I urge the passage of this bill. This is an example of the clean-up work that legislatures must do when courts try to twist the meaning of the law. But it is necessary work to ensure that the people's representatives remain in control of what Kansas law is.