

Legislative Testimony

In Opposition of SB 63

Senate Public Health & Welfare Committee

January 28, 2025

Committee Chair and Members of the Committee:

I appreciate the opportunity to present testimony here today on behalf of the American Civil Liberties Union of Kansas. I'm D.C. Hiebert, a lawyer, and the Civil Liberties legal fellow with the ACLU of Kansas. We are a nonpartisan, non-profit organization that works to preserve and strengthen the civil rights and liberties of every person in our state.

The ACLU of Kansas stands strongly opposed to SB 63 and urges you to not vote this bill out of committee. Not only does SB 63 likely violate the state and federal constitutional rights of Kansas children, parents, therapists, doctors, teachers, and other state employees—it poses an unprecedented threat to Kansas families. By effectively banning the *only* evidence-based healthcare options available for Kansas youth experiencing gender dysphoria, SB 63 far exceeds the appropriate government regulation of medicine and removes Kansas parents' ability to access the healthcare they decide is right for their child.

SB 63 essentially bans all gender-affirming healthcare for transgender Kansans under 18 years old by threatening providers with strict liability lawsuits and licensure implications. But the bill doesn't stop there—it also bans providers from giving trans patients referrals to receive medically necessary healthcare, setting a precedent of extreme overreach into the medical practice in Kansas.

And the reach of SB 63 does not stop at providers giving medical care—it also implicates state-funded facilities and state employees tasked with “the care of children” in its limiting provisions. Specifically, the bill bans such facilities and state employees from aiding the medical *or* social transition of trans youth. SB 63 defines “social transitioning” to include “changing of an individual’s preferring pronouns or manner of dress.” This is extremely concerning, as these provisions could mean state employees like social workers are forced to misgender trans youth in their care or forced to violate trans youths’ right to self-expression through their dress.

This bill places politicians’ feelings and unsubstantiated fears above the advice of medical professionals, and strips families of their ability to make informed healthcare decisions. That is why every major medical association—including the American Medical Association¹, the American Academy of Pediatrics², and the

¹ See, e.g., *AMA reinforces opposition to restrictions on transgender medical care*, THE AMERICAN MEDICAL ASSOCIATION (June 15, 2021), <https://www.ama-assn.org/press-center/press-releases/ama-reinforces-opposition-restrictionstransgender-medical-care>.

² *Ensuring Comprehensive Care and Support for Transgender and Gender Diverse Children and Adolescents*, THE AMERICAN ACADEMY OF PEDIATRICS (Oct. 1, 2018) (reaffirmed Aug. 2023), <https://publications.aap.org/pediatrics/article/142/4/e20182162/37381/Ensuring-Comprehensive-Care-and-Support-for?autologincheck=redirected>

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American Academy of Child and Adolescent Psychiatry³—opposes bills like SB 63 and instead support access to the healthcare this bill seeks to ban. In fact, the American Medical Association said legislation such as SB 63 “**represents a dangerous governmental intrusion into the practice of medicine**” and that such bills “**will be detrimental to the health of transgender children across the country.**”⁴

In addition to opposition from leaders in the medical community stating these bills are harmful and an invasion into ethical medical practice, there is also a strong risk that these bills illegally discriminate against trans people and violate federal Constitutional rights.

Importantly, the United States Supreme Court heard argument in *United States v. Skrmetti*⁵ in December 2024 directly on point to this issue—Tennessee passed a categorial ban on gender-affirming medical care similar to SB 63, and that law was challenged as unconstitutional. The Supreme Court is poised to rule in *Skrmetti*—and thus, on the constitutionality of similar bans like SB 63—in the coming months. Passing new measures restricting gender-affirming care in Kansas now would waste critical government resources and Kansas taxpayer dollars—as a Supreme Court ruling on the matter is imminent and will provide guidance on the legality of such laws. The ruling in *Skrmetti* will be controlling precedent for Kansas and all other states, meaning if the Supreme Court rules that these laws are unconstitutional, SB 63 will be unenforceable in our state. It logically follows that the Kansas Legislature should wait until a ruling comes down in *Skrmetti* before passing legislation that will be directly impacted by the outcome of that lawsuit.

SB 63 also raises legal concerns under the Kansas Constitution. This bill sets a terrifying precedent by taking away parents’ rights to make decisions about their children’s medical care. It was not long ago that Kansans made it very clear that they do not want politicians infringing on their right to determine what healthcare is best for them. This bill flies in the face of the will of the people and violates Kansans’ constitutional right to personal autonomy—**a right the Kansas Supreme Court has said “includes the ability to control one’s own body, to assert bodily integrity, and to exercise self-determination.”**⁶

In addition to these likely constitutional violations, we also urge you to think about what SB 63 would mean for the Kansas medical profession. This bill would threaten Kansas medical providers with civil liability and license revocation for simply providing their patients with nationally recommended, best practice healthcare—care that many of these providers have been safely administering for years in our state without

³ AACAP Statement Responding to Efforts to Ban Evidence-Based Care for Transgender and Gender Diverse Youth, AMERICAN ACADEMY OF CHILD AND ADOLESCENT PSYCHIATRY (Nov. 8, 2019),

https://www.aacap.org/AACAP/Latest_News/AACAP_Statement_Responding_to_Efforts-to_ban_Evidence-Based_Care_for_Transgender_and_Gender_Diverse.aspx

⁴ AMA reinforces opposition to restrictions on transgender medical care, THE AMERICAN MEDICAL ASSOCIATION (June 15, 2021), <https://www.ama-assn.org/press-center/press-releases/ama-reinforces-opposition-restrictionstransgender-medical-care>

⁵ See *United States v. Skrmetti*, 144 S. Ct. 2679, 219 L. Ed. 2d 1297 (June 24, 2024).

⁶ See, *Hodes & Nauser, MDs, P.A. v. Schmidt*, 309 Kan. 610, 646 (2019).

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issue. We should be supporting the medical professionals practicing in our state, not antagonizing them with laws that impede their ability to effectively do their jobs.

You may not understand what it means to be transgender. You may think that it's best to try and stop young people from growing into transgender adults. But even if that instinct is coming from a genuine place of care, passing a bill like SB 63 does nothing to address those alleged concerns. It will not prevent transgender kids from being who they are. The only thing a bill like SB 63 will do is unequivocally harm transgender youth and violate Kansans' constitutional rights.

I do not mean this in an abstract sense. If SB 63 becomes law, people will die. Families will suffer. The practice of medicine will be compromised—not just for trans young people, but for everyone in Kansas. **SB 63 would set a precedent that medical providers should not give you the best medical care available, but instead give you the medical care politicians decide you should have access to.** It would mean Kansas medical providers cannot do their jobs and would cause the public to lose faith in the quality of medical care they are being given.

While I am sharing this testimony as a constitutional lawyer with the ACLU of Kansas, I am also sharing this testimony as a lifelong Kansan and a transgender person. The very care that SB 63 seeks to ban is the reason I am alive, living a joyful and fulfilling life. It is the reason I graduated from a Kansas college and am now a licensed attorney with a law degree from the University of Kansas. Gender-affirming healthcare has allowed me to become the person I am today and gave me the confidence to advocate for my fellow Kansans' rights.

I love Kansas and am proud to call it my home. I know countless other trans people in the state that feel the same way. But bills like SB 63 tell us that our state doesn't love us back. People will not stop being transgender because Kansas bans this care or punishes its medical providers. Trans people will still exist in Kansas and in every state in our country, just as they always have. Please don't make it harder for these young Kansans to live their dreams and contribute to our state, their families, and their communities. We urge you to oppose SB 63.

Thank you.

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Civil Liberties Legal Fellow