

Kansas attorney general sues to stop trans people from changing their birth certificates

The move was timed to facilitate enforcement of a sweeping statewide anti-transgender law in Kansas that is due to go into effect next week.

June 26, 2023, 5:22 PM EDT

By [Adam Edelman](#)

Kansas Attorney General Kris Kobach has asked a federal judge to allow state officials to bar people from changing their birth certificates, a move aimed at enforcing a sweeping statewide anti-trans [law](#) that is due to go into effect next week.

In a court filing late Friday, Kobach, a Republican, requested that the judge end a federal consent decree that required state authorities to allow people in the state to make changes to their birth certificates, including their listed gender.

If the judge allows the request, people in Kansas would be barred from making such changes.

At a news conference Monday, Kobach announced his office's formal legal guidance on enforcing parts of the new law. He said the state's permanent records of birth certificates and driver's licenses would reflect a person's gender at birth, regardless of whether that person had filed to change the gender on their birth certificate at any point before the new law goes into effect.

"If you were a person who transitioned and got a birth certificate reflecting a different sex, that piece of paper can remain with you. There's nothing in the law that forces someone to surrender a certificate that was changed. However, the state's data will reflect the original sex at birth," Kobach said.

Kobach's filing comes just days before one of the most expansive laws restricting trans rights is set to go into effect on July 1. It bans transgender people from using restrooms, locker rooms, domestic violence shelters and rape crisis centers that are associated with their gender identities.

The law, which was enacted in April after Republican legislators [overrode a veto from Democratic Gov. Laura Kelly](#), goes further than similar laws in other states because it legally defines the terms male and female as being based on the person's reproductive anatomy at birth. The law — [SB 180](#) — also deems that "distinction between the sexes" in the places the law outlines is designed for "protecting" the public's "health, safety and privacy" and requires state agencies to identify people "at birth" as male or female for "accurate" data collection.

Advocates for and against the law have said that it lacks a clear enforcement mechanism: The law doesn't change any criminal statutes, doesn't mandate any criminal penalties or fines and doesn't allow people to sue another party over alleged violations. That has led critics to predict that the law's [most likely direct outcome](#) will be on how the state maintains identification documents for transgender Kansans.

LGBTQ advocates and civil rights groups blasted the move.

"No matter how much Attorney General Kobach and extremists in our state legislature may wish to, they cannot erase the fundamental protections the Constitution guarantees to every single LGBTQ+ Kansan," ACLU of Kansas executive director Micah Kubic said in a statement. "Mr. Kobach should rethink the wisdom — and the sheer indecency — of this attempt to weaponize his office's authority to

attack transgender Kansans just trying to live their lives."

The filing pertains to a four-year-old consent decree that required Kansas to allow people with birth certificates issued in the state to change those documents. The decree itself was the result of a 2018 lawsuit in which a group of transgender people sued Kansas, arguing that policies in place at the time preventing them from changing their birth certificates were unconstitutional.

Similar rules in Idaho and Ohio were struck down by federal courts in 2020 — though a federal judge in Oklahoma dismissed a challenge earlier this year to a similar law barring changes to birth certificates.

Rather than litigate the case, the state, after Kelly took office in 2019, agreed to a consent decree — a settlement overseen by the federal government — under which the state was required to “provide certified copies of birth certificates to transgender individuals that accurately reflect their sex, consistent with their gender identity, without the inclusion of information that would, directly or indirectly, disclose an individual’s transgender status on the face of the birth certificate.”

But Kobach, in his filing, said that the state needed to be able to prevent people from changing their birth certificates to help with enforcement of the new law, and that it was “impossible to comply with both” SB 180 and the consent decree.