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SB12 Opponent - Written and Oral In Person Testimony

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American Civil Liberties Union of Kansas**

**Senate Public Health and Welfare Committee
Tuesday, February 14, 2023 – 142 S**

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. Hiegert, a lawyer, and the LGBTQ+ 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 SB12 and urges you to not vote this bill out of committee. Not only does SB12 violate the constitutional rights of Kansas children, young adults, their parents, and their doctors—it poses an unprecedented threat to Kansas parents and families. By criminalizing all gender-affirming healthcare for Kansans under 21 years old, SB 12 far exceeds the appropriate government regulation of medicine and bans the only evidence-based healthcare options available to young Kansans experiencing gender dysphoria.

This bill places politicians' feelings above the expert medical advice of hundreds of thousands of doctors, and strips patients and families of their ability to make informed healthcare decisions. While purporting to be about protecting young people, this bill actively harms them and their families—by banning their access to medically necessary, safe, effective, and evidence-based care. That is why every major medical association—including the American Medical Association, the American Academy of Pediatrics, and the American Academy of Child and Adolescent Psychiatry—opposes bills like SB 12 and instead support access to gender-affirming care.¹

In addition to opposition from leaders in the medical community, courts across the country have recognized that bills like SB 12 violate the equal protection and due process rights of adolescents, their parents, and their doctors. The Eighth Circuit, the Northern District of

¹ See, e.g., <https://www.ama-assn.org/press-center/press-releases/ama-reinforces-opposition-restrictions-transgender-medical-care>; <https://www.aap.org/en/news-room/news-releases/aap/2018/aap-policy-statement-urges-support-and-care-of-transgender-and-gender-diverse-children-and-adolescents/>; https://www.aacap.org/AACAP/Latest_News/AACAP_Statement_Responding_to_Efforts_to_ban_Evidence-Based_Care_for_Transgender_and_Gender_Diverse.aspx.

Alabama, and the Supreme Court of Texas have all barred efforts to ban gender-affirming care.² SB 12 clearly discriminates on the basis of sex and transgender status and infringes upon the fundamental rights of Kansas parents. This discrimination means that the bill triggers the highest levels of constitutional scrutiny, and the state of Kansas will ultimately carry the burden of proving that SB 12 advances compelling government interests. But no other state has been able to carry that burden—every state that has attempted to defend these bills in court has lost.

What those states have succeeded in doing is charging enormous legal fees to taxpayers. The legal challenge of a similar Arkansas bill has accumulated well over \$3 million in litigation expenses and attorney's fees.

Beyond the clear constitutional violations, this bill sets a terrifying precedent. Not only does it take away parents' rights to make decisions about their children's medical care—a right that some in this room have vehemently defended in other contexts—but it bars adults aged 18-21 from making their own medical decisions. Just seven months ago, Kansans made it very clear that they do not want politicians infringing on their right to determine what healthcare is best for them.

In addition to the violations of individual and parental rights, I also urge you to think about what SB 12 would mean for medical professionals. This bill would criminalize Kansas medical professionals who are simply trying to provide their patients with recommended, evidence-based, medically necessary care. It would stop parents from accessing the only proven medical care to help young people with gender dysphoria because medical professionals would be threatened with losing their licenses and prison time for helping them. And it would result in the forced medical detransition of young adults—some of whom have been safely relying on this medical care for years.

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 12 does nothing to address those alleged concerns. The only thing a bill like SB 12 does is unequivocally harm transgender youth and violate Kansans' constitutional rights. And I do not mean this in an abstract sense. People will die. Families will suffer. The practice of medicine will be compromised—not just for transgender young people, but for everyone. SB 12 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 12 seeks to ban is the reason I am alive, living a joyful and fulfilling life. 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.

² See, e.g., *Brandt v. Rutledge*, 47 F.4th 661, 671 (8th Cir. 2022); *Eknes-Tucker v. Marshall*, No. 2:22-CV-184-LCB, 2022 WL 1521889 (M.D. Ala. May 13, 2022); *In re Abbott*, 645 S.W.3d 276, 65 Tex. Sup. Ct. J. 1071 (May 13, 2022).

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 12 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. I and the ACLU of Kansas urge you to oppose SB 12.

Thank you.