



TESTIMONY OF

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IN SUPPORT OF HB 2270

KANSAS HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE

FEBRUARY 21, 2019

Thank you, Chair Jennings, and members of the Committee for affording us the opportunity to provide testimony on HB 2270.

The American Civil Liberties Union (ACLU) of Kansas is a non-partisan, non-political membership organization dedicated to preserving and strengthening the constitutional liberties afforded to every resident of Kansas. We work to preserve and strengthen our constitutional rights and freedoms through policy advocacy, litigation, and education. We proudly serve over 40,000 supporters in Kansas and represent more than 1.7 million supporters nationwide.

We urge you to support HB 2270. It eliminates an unconstitutional provision that discriminates against same sex relationships. The statute as written singles out lesbian and gay youth for harsher prison sentences.

Lawrence v. Texas

1. In 2003, the Supreme Court said the Constitution protects the right of gay people to form intimate relationships and “retain their dignity as free persons.” Gay and lesbian people have the same right to “define one's concept of existence, of meaning, of the universe, and of the mystery of human life,” that heterosexuals do. Accordingly, they may have relationships and legal protections that align with those of heterosexuals.

2. This decision affirmed the rights of gay and lesbian couples, and overturned the bigoted sodomy laws present in so many state statutes.

Limon v. Kansas

1. In 2005, the Supreme Court of Kansas found Kansas' Romeo and Juliet statute "unconstitutional because it results in a punishment for unlawful voluntary sexual conduct between members of the opposite sex that is less harsh than the punishment for the same conduct between members of the same sex."
2. Limon's conduct met all of the elements of the Romeo and Juliet statute except the one limiting application to acts between members of the opposite sex. When the Romeo and Juliet statute applies, prison terms are shorter and other consequences, such as post-release supervision periods and sex offender registration requirements, are less harsh than when general statutes apply. Because these disparities were based upon the homosexual nature of Limon's conduct, this violated the equal protection principles announced by the United States Supreme Court.
3. Under the guidance of *Lawrence*, and considered in conjunction with several equal protection decisions of the United States Supreme Court, the Supreme Court of Kansas held that the State does not have a rational basis for the statutory classification created in the Romeo and Juliet statute.

In short, K.S.A. 2018 Supp. 22-2411 as written, violates the United States and Kansas constitutions.

- No person may be punished for their sexual orientation.
- No person may be discriminated against because of sex or gender.
- Gay and lesbian relationships have the same protections and rights as heterosexual ones, per the Supreme Court decision, and the precedent of equality.
- No person should be disproportionately punished by law because of sexual orientation or gender.
- Amending the statute to eliminate the clause that protects voluntary relationships only if they are of the opposite sex brings this statute into alignment with Supreme Court decisions, and with basic principles of equality under the law.