

News From The States

EVENING WRAP

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By [Kate Queram](#)

I had a whole thing written and then I had to scrap it because news, so now you get this little story instead. Once upon a time, the end, and onto the news!

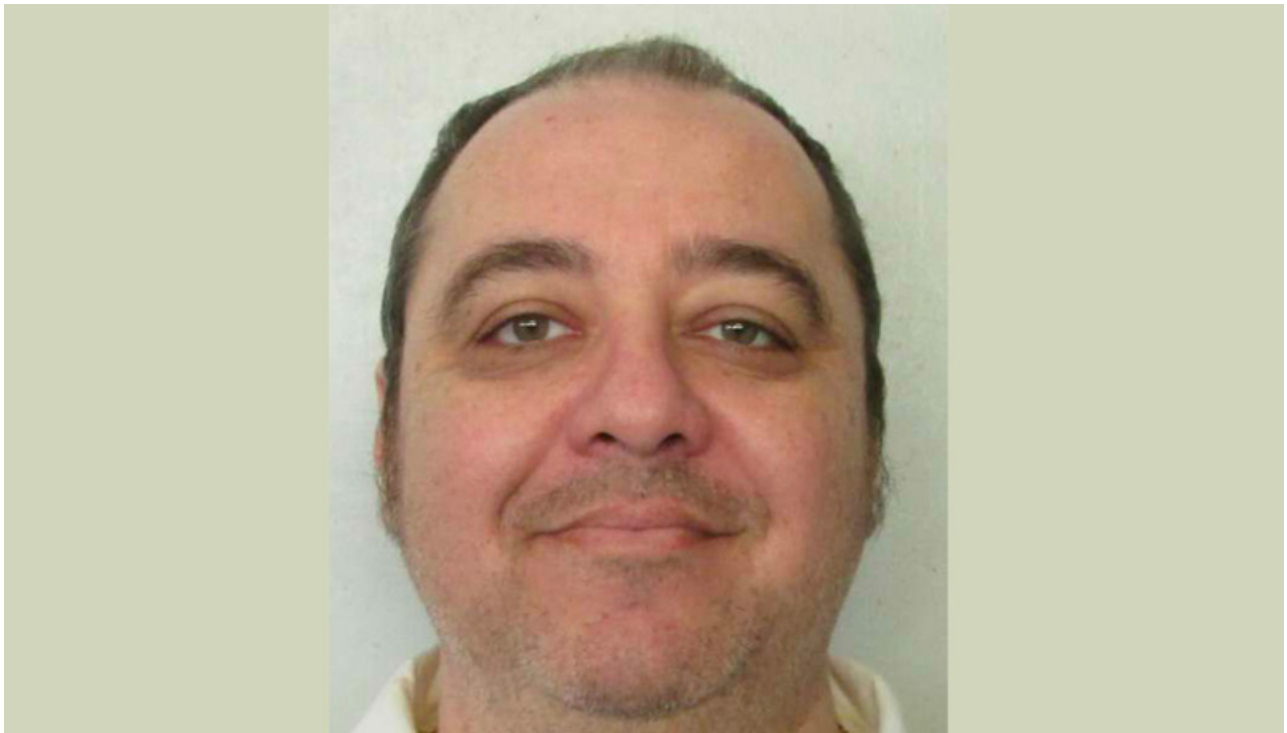


The Big Takeaway

The U.S. Supreme Court declined on Wednesday to halt a pending execution in Alabama, clearing the way for the state to put to death a prisoner using nitrogen gas, an untested method that [critics say](#) is inhumane, [the Alabama Reflector reported](#).

Kenneth Eugene Smith, convicted for his role in a 1988 murder-for-hire scheme, is scheduled to be executed during a 30-hour window that began Thursday. The state previously tried to execute him in November by lethal injection, but officials rescheduled after [struggling to find a vein](#) to administer the drugs before the execution warrant expired. Smith's attorneys had argued that subjecting him to a second execution violated constitutional protections against cruel and unusual punishment, but the high court rejected that appeal without explanation.

Smith's attorneys [filed a second appeal](#) Thursday morning. As of this writing, the court had not responded.



*Kenneth Eugene Smith.
(Photo via the Alabama Reflector)*

A federal appeals court on Wednesday [rejected](#) a similar plea, affirming a lower court ruling that allowed the execution to proceed. In a dissenting opinion, U.S. Circuit Judge Jill Pryor detailed the likelihood that a second execution will trigger Smith's "undisputed posttraumatic stress disorder" from the first attempt. The lingering trauma is already "causing him to persistently vomit," Pryor wrote.

Should that happen in the chamber, the executioners "will not intervene — they have told us so — even as vomit fills the mask and flows into Mr. Smith's nose and mouth," Pryor wrote. "Then, at last, Mr. Smith's body will succumb to the effects of oxygen deprivation, asphyxiation, or both. He will die. The cost, I fear, will be Mr. Smith's human dignity, and ours."

In May, Smith successfully lobbied the U.S. Supreme Court for the right to [choose to die by nitrogen hypoxia](#), which the state Department of Corrections argued was a stall tactic.

The execution will take place in the same chamber where Smith lay strapped to a gurney in November. Corrections officials will place a fitted mask over his face and administer a steady flow of nitrogen gas, depriving him of oxygen for 15 minutes or until an EKG confirms that his heart has stopped. State lawmakers approved the protocol in 2018 after concluding it was a humane method of execution, but experts [have described it](#) as an experimental process that could

prolong both psychological and physical suffering. Veterinarians [discourage](#) the use of nitrogen gas in the euthanization of animals, but it has never been used to execute a human being, though it is also legal in Oklahoma and Mississippi.



*Not a mental health treatment facility, believe it or not.
(Photo by Darrin Klimek/Getty Images)*

Among the several questionable correctional policies in Mississippi, people who have not been charged with crimes are [regularly detained in jails](#) while they await mental health treatment. This is legal under state statute, provided there is “[no reasonable alternative](#).” But officials are still hoping to begin phasing it out, [Mississippi Today reported](#).

That process began Monday, when Republican state Rep. Kevin Felsher [filed a bill](#) that would allow jail detentions for up to 72 hours only for people awaiting transportation to a medical facility. A [second proposal](#), pending as of Thursday, would amend the commitment process to require a pre-evaluation screening from a mental health professional prior to detainment. State officials endorsed both measures Wednesday at a Senate committee hearing, telling lawmakers that the changes were key to restoring basic rights to people in distress.

“If you are sick and need a court commitment, that is not a reason to place an

individual in jail,” said Wendy Bailey, director of the state Department of Mental Health.

Better data could inform additional solutions, though it’s not clear when that might happen. Bailey described data showing a decrease in the length of time people spend in jail waiting for state hospital beds — but only after they have a hearing, which could be weeks after they’re first detained. The state has never [collected that information](#), but it will begin soon as required under a law approved in 2023, Bailey said.



*Up up and away from record numbers of guns at the airport.
(Photo by George Frey/Getty Images)*

Data gaps are not a problem in Utah, as long the data you’re interested in is the number of firearms brought to airports. (And really, who isn’t?) Last year, it was a record-high 126, up from 123 in 2022; 124 in 2021; and 78 in 2020, according to the [Transportation Security Administration](#). This is bad, but often it is also an *accident*, and when you *accidentally* bring a gun to the airport, you should not be *punished*. Or at least that’s what lawmakers think, [per the Utah News Dispatch](#).

That's why it is no longer illegal in Utah to bring a firearm to the airport, provided it's a "[true accident](#)." It's also why lawmakers on Wednesday advanced [a bill](#) clarifying reporting requirements for law enforcement, who critics say have been overly aggressive in responding to gun incidents at Salt Lake City International Airport. Most firearm discoveries are still classified as "reckless," according to state Rep. Stephanie Gricius, the Republican who sponsored both measures. Officers who refuse to do so are often punished, she added.

The bill would rein them in by prohibiting citations for first-time offenders who *truly, accidentally* bring a gun to the airport. Additional offenses would be punishable only by fines, similar to what you'd incur for a traffic violation, Gricius said. Police would still be authorized to determine — via an investigation, either on the spot or within three days — whether each incident was intentional. The outcomes of those probes dictate the charges, which can be levied only by law enforcement — not by state or local government, according to the proposal.



*That suitcase would hold a lot of accidents!
(Photo by Alex Wong/Getty Images)*

Seems reasonable, lawmakers said. I mean, who among us *hasn't* accidentally sauntered through a security checkpoint with a gun in our carry-on?

“I bet half the people in this room know somebody, or have themselves, accidentally brought their concealed firearm to the airport because it was in their bag,” said House Majority Whip Karianne Lisonbee.

The committee approved the bill unanimously. It heads next to the House.



State of Our Democracy

A proposed bill in Kansas would bar county election offices from sending advance ballot applications to voters who do not request them, which Republicans said is a budgetary concern and *definitely* not a pointless idea rooted in election conspiracy theories. And anyway, it's all Fred Sherman's fault, [the Kansas Reflector reported](#).

Sherman, in case you are not up on your Kansas trivia, is an election commissioner who mailed unrequested advance ballot applications to 417,000 voters in Johnson County, sticking taxpayers (who are, presumably, also those voters) with a \$130,000 bill. Which was so *inappropriate* that the legislature was *forced* to intervene, according to state Sen. Mike Thompson, the Republican who authored the bill.

Under his proposal, counties could only mail advance ballot applications to registered voters who specifically request them. Starting July 1, officials would also be prohibited from filling in the name, address and date of birth slots on those documents, which they often do to ensure legibility now that [everyone has terrible handwriting](#). (Bizarrely, the proposal would also decrease the font size of voting mailers, from 14-point type to a minimum of 12-point.) Those restrictions would apply only to government agencies, leaving individuals, political parties and advocacy groups free to do whatever they want with advance ballot mailers.



Woo.

(Photo by Andrei Korzhyts/Adobe Stock)

Ironically yet unsurprisingly, the presumably cost-saving bill would likely be a financial drain on county election offices, which would have to pay extra staffers to accommodate the increase in in-person voting following the drop in advance ballots, said Clay Barker, general counsel in the secretary of state's office.

The office is neutral on the bill, Barker said. But it'd probably be a good idea for lawmakers to listen to the county election officials who hate it, he added.

"We do, however, encourage the committee to listen to the concerns of the county election officers, as they are the only public officials tasked with the responsibility to conduct the elections in Kansas and can identify unintended consequences," he said.

Mostly, those officers just wanted lawmakers to back off. It's not that every county wants to mail advance ballots to every voter, said Harvey County Clerk Rick Piepho, chairman of the elections committee of the Kansas County Clerks and Election Officials Association. They'd just like the *option*.

"We believe that individual election offices should continue to have the option, based on the needs of their jurisdiction, to send unsolicited mailings to voters in

their jurisdiction that include an advance ballot application,” he said.

Davis Hammet, head of voting advocacy group Loud Light, was more direct. Some counties have been sending unsolicited advance ballot applications since 2008, and nobody said a word — until 2020, when Donald Trump unleashed an unending torrent of election conspiracy theories and lies that has yet to abate. The bill is just the latest side effect, he said.

“It appears the only purpose of SB 366 is to coddle Kansans who have fallen victim to election conspiracies and misinformation,” Hammet said.



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Environment

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One Last Thing

A Japanese spacecraft landed on its nose on the moon due to “some kind of anomaly” during descent, [officials said](#) — but it landed within 55 meters of the target, so overall, a win!

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