

News From The States

EVENING WRAP

Thanks for being here and [supporting our work](#).



By [Kate Queram](#)

Do you have questions about politics, elections, the point of Congress, why Clarence Thomas is the way that he is, and/or the proper volume for screaming into the void? Send them over to askkate@statesnewsroom.com, and I may answer them in an upcoming newsletter!

Happy Thursday to everyone who has never asked the United States Supreme Court to decide whether your insurrectionist tendencies should bar you from seeking a job [you already lost!](#) (To everyone else: I have many questions. Email me.)



The Big Takeaway

The U.S. Supreme Court on Thursday officially joined our collective nightmare, hearing arguments in a case that could upend American politics by determining whether Donald Trump's attempts to overturn the 2020 election should disqualify him from appearing on the ballot in 2024, [Colorado Newslane reported](#).



A matter of opinion.
(Photo by Ashley Murray/States Newsroom)

The case is an appeal of a December ruling from the Colorado Supreme Court that prohibited Trump from appearing on the state's Republican primary ballot under the U.S. Constitution's insurrection clause. In a 4-3 decision, the court affirmed that Trump engaged in insurrection by fomenting a mob to storm the U.S. Capitol on Jan. 6, 2021, disqualifying him from seeking the presidency under Section 3 of the 14th Amendment. The U.S. Supreme Court's decision to uphold or reject that ruling will have far broader implications, likely determining not only if Trump can run in the Colorado primary, but also his eligibility in the general election and, potentially, to hold elected office in general.

This isn't a new position for the court, but it is an uncomfortable one. The last time the panel took such a direct role in a presidential contest was in 2000, when it handed the White House to George W. Bush in a 5-4 decision that is broadly considered to be among the worst in history. The stakes here are similar, if not higher — for Trump, and the country, and even the court itself, which has come under scrutiny for its lax ethics rules and general willingness to upend societal norms in service of its own hyperconservative majority.

The justices seemed at great pains to evade political controversy Thursday, focusing their questions mainly on whether the insurrection clause could be applied without congressional action. Trump's attorneys had argued that states lack the authority to disqualify federal candidates under the 14th Amendment, which states that Congress "shall have power to enforce, by appropriate legislation, the provisions of this article."



*Not that Congress could handle that (or anything).
(Photo by Jennifer Shutt/States Newsroom)*

A majority of justices, both conservative and liberal, appeared to agree.

Justice Elena Kagan questioned the constitutionality of giving one state "the ability to make this determination not only for their own citizens, but for the rest of the nation." Doing so would be counter to the intent of the provision, which sought to specifically empower the federal government to disqualify Confederate sympathizers from holding office during Reconstruction, agreed Chief Justice John Roberts.

"The whole point of the 14th Amendment was to restrict state power, right?" he asked, adding that it's "the last place you'd look for authorization for the states,

including Confederate states, to enforce the presidential election process.”

An attorney for the plaintiffs refuted that argument, noting that states are authorized to disqualify candidates for any number of reasons, from term limits to age restrictions to, yes, insurrectionist tendencies. He also sought to establish Jan. 6 as an insurrection fomented by Trump, but justices mostly sidestepped that topic in their questioning.

The decision could come anytime (the Supreme Court does what it wants, lifetime appointments, no take-backsies!), though I’d wager it will be relatively soon. The case was fast-tracked when the court agreed to hear it, and both sides have asked for a speedy resolution — ideally before March 5, when Colorado and 14 other states will hold presidential primaries. Somewhat ironically, the decision won’t actually change Colorado’s primary ballot, which has already been printed with Trump’s name. (If the Supreme Court rules him ineligible, the state will discount those votes.)



*DO NOT WORRY HENRY EITHER WAY IT IS NOT YOUR FAULT
(Photo by George Frey/Getty Images)*

Down the street at the U.S. Capitol, Senate Republicans joined with Democrats to clear a procedural hurdle allowing work to begin on a \$93.5 billion aid package for allies overseas, [our D.C. bureau reported](#). The 67-32 vote

followed months of pointless negotiating that began with Republicans demanding that border security be tied to the proposal and then demanding that border security [be considered separately](#) from the proposal. Now there is no border security, but at least the Senate can consider aid for Israel, Taiwan and Ukraine before watching it die a slow death in the House.

Lawmakers had initially planned to vote on the limited bill Wednesday, but Senate Majority Leader Chuck Schumer delayed the roll call for a day to give GOP senators more time to fight amongst themselves. Would they vote for it? Would they invoke the filibuster, everyone's least favorite party trick? Would a beleaguered nation notice or care? You could cut the tension with a deflated balloon! In the end, Republicans split on the measure, as they are increasingly wont to do in service of their larger goal of Accomplishing Nothing So Trump Has Something To Campaign On, Or Whatever.

Schumer said Thursday he was working with Republicans to agree on the rules for the amendment process, which is destined to include hours of debate over border security (sure, why not, let's do that again) and proposed limits on how the aid package can be spent. Schumer seemed laissez-faire about all of that, probably because it is at least something new to do after months of hammering out [a bipartisan immigration bill](#) at the request of the same Republicans who then tanked it so Trump's border rants would seem more credible.



“Sweet.”

(Photo by Scott Olson/Getty Images)

“Democrats have always been clear that we support having a fair and reasonable amendment process,” Schumer said. “During my time as majority leader, I have presided over more amendment votes than the Senate held in all four years of the previous administration.”

“For the information of senators, we are going to keep working on this bill until the job is done,” he added.

And because why not, let's end in Arizona, where the leader of the far-right Freedom Caucus wants to ban Satanic displays on public property. And *not* because Satanism is offensive to him, personally, as a Christian — but because Satanism is not a real religion, so it doesn't warrant First Amendment protections, [the Arizona Mirror reported](#).

“Satan is antithetical to religion,” state Sen. Jake Hoffman insisted Wednesday at a legislative hearing for his bill. “The antithesis of religion is Satan.”

The Reject Escalating Satanism by Preserving Essential Core Traditions, or [RESPECT, Act](#) would amend three different sections of state statute to ban “Satanic memorials, statues, altars, or displays or any other method of

representing or honoring Satan” on public property. Hoffman refused to elaborate much beyond that, insisting that the bill was “extremely clear” even though he never explained what “essential core traditions” it preserved or how Satanism constitutes disrespect, or really anything at all.



SO CLEAR.

(Photo by Сергей Рамильцев/Adobe Stock)

But he did yell at a bunch of people who came to testify against it, insisting they were “misrepresenting” the proposal. (If he’d done a better job of explaining the “extremely clear” bill, maybe that wouldn’t have been an issue!) He also got mad at audience members for making faces and gestures at him, accused a member of [The Satanic Temple](#) of lying in her testimony, and claimed that the bill did not infringe on a religious group’s First Amendment rights, because Satanism is not a religion.

Except it kind of is. The Satanic Temple has [the same nonprofit status](#) afforded to every other tax-exempt church that operates as a charity. Its principles do not include worshiping a literal Satan, but [do involve](#) opposing injustice, undertaking noble pursuits, and encouraging benevolence and empathy. The church fights for abortion rights and often [erects displays](#) memorializing Satan in public buildings that also house Christian imagery, including nativity scenes. Outlawing that

custom is a clear restriction on the practice of its religion, according to opponents of the bill. Others warned that the proposal would set a dangerous precedent, making it easier for lawmakers to target other religions in future bills.

“Does any religion matter that is not your Christian religion?” one opponent asked Hoffman.

This, it seems, was more than Hoffman could take. It is *unacceptable*, he fumed, that you can be *arrested* for [knocking over](#) a *Satanic display* in *Iowa*, but [face no consequences](#) for having a “*gay sex orgy*” at the U.S. Capitol, both things that are *extremely relevant* to Arizona and also this debate! And Satanism is *not a religion*, he roared. That is a “ludicrous statement,” because Satan is “universally known to be explicitly the enemy of God.” “Literally everyone” knows that!

“That’s not a point that is debatable,” Hoffman said.

It was, actually, pretty easy to debate. More than 280 people and organizations opposed the bill, compared to 19 who registered in favor of it. (The Senate Government Committee still voted 5-1 to advance it.) Among the critics was Joshua Gray, a former Marine who said the proposal was insulting to the concept of religious liberty and also to his service.

“I fought for everyone’s freedom — everyone’s,” Gray said. The Constitution, he added, does not specify that Abrahamic religions are somehow better or more protected than any other religion.

“The unconstitutional nature of this bill is not a matter of opinion,” he said.

Facts and freedom

- [Alabama Senate committee approves restrictions on absentee ballot assistance amid confusion](#)
- [Ranked choice repeal group appeals big fine for violating Alaska campaign finance laws](#)
- [Black voters want Louisiana congressional map lawsuit moved from GOP-stacked court](#)
- [Senior Biden aides plan trip to Michigan Thursday for meeting with Arab-American leaders](#)



LGBTQ+ Rights

With their anti-trans agenda stymied by a Democratic governor, Arizona Republicans are taking the case directly to voters with a ballot referendum that would make it harder for trans students to use their preferred pronouns and bathroom facilities at school, [the Arizona Mirror reported](#).

“This bypasses the governor and goes right to the ballot, where — if all the polling I’ve seen is correct — it’ll probably pass with 60, 65 percent of voters who don’t really believe that this type of stuff should be going on in our schools,” said state Sen. John Kavanagh, a Republican and the measure’s lead sponsor.



*"This type of stuff" = literally just kids existing.
(Photo by Gloria Rebecca Gomez/Arizona Mirror)*

[The proposal](#), approved Wednesday by the Senate education committee, resurrects and combines a pair of bills — one targeting [preferred pronouns](#), the other [policing bathroom usage](#) — vetoed last year by Gov. Katie Hobbs. As written, the referendum would ask voters to decide whether teachers should have to obtain written permission to use a student’s preferred name or pronouns, and whether schools should be required to provide single-occupancy bathroom facilities for trans students in lieu of allowing them to decide on their own where to relieve themselves or change their clothes. Schools who violate the policy

could be sued by cisgender students for “psychological, emotional and physical harm.”

And then, just to be safe, Kavanagh also introduced ever-so-slightly less terrible versions of both proposals as standalone bills in the hope that their microscopic improvements might worm their way past Hobbs’ veto pen. [The first](#) would require schools to notify parents within five days if their child requests to use a new name or different pronouns. It does not require teachers to obtain written permission before using preferred pronouns, though it does provide an exemption for educators with a “religious or moral conviction” (against, I guess, a person’s preferred name or identity).

Kavanagh tried to frame that as a safety measure, telling the committee that parents need to be notified if a child has gender dysphoria, “which sometimes manifests itself with depression and even suicidal thoughts.” This is true, sort of — trans kids are [far more likely](#) to experience psychological distress than their cisgender counterparts, *particularly* when people in their lives do not respect their [chosen names or pronouns](#).

[The second proposal](#) would require schools to separate shower facilities by biological sex, with a separate space available to trans students. Cisgender students could still sue over violations, but the bill would no longer apply to bathrooms or locker rooms, even though Kavanagh would prefer that it did. Mostly that was due to his own imagination, which is constantly conjuring up transphobic images of “a 15-year-old biological female” being forced “to stand next to, terrified or certainly uncomfortable, a 20-year-old biological male who identifies as a different gender.”

There are no real-world examples of this happening, as far as Kavanagh knows. He’s still going to describe it for you in detail, though.

Advocates and trans kids said the things they always say in these situations. The bills offer detailed solutions for problems that do not exist. (Just like every other public place in this country, school shower facilities already provide separate, single-occupancy stalls.) They likely constitute violations of [federal anti-discrimination protections](#). There is no point to them beyond bullying and ostracizing a small number of kids who are often already bullied and feeling ostracized.

“It is stigmatizing and it is discriminatory to expel trans young people from

common spaces,” said Gaelle Esposito, a trans woman and a lobbyist for the Arizona branch of the American Civil Liberties Union. “No one should be told that they are so shameful that they shouldn’t be allowed in the proximity of their peers.”

Republicans responded how they always respond: By voting to approve all three proposals.

Warm up your veto pen

- [Ohio trans college students denounce proposed bathroom ban bill as dangerous](#)
- [Georgia senators debate state pullout from accrediting American Library Association](#)
- [House panel considers bills making it easier for transgender Michiganders to change their names](#)
- [Washington lawmakers back rewrite of bar and nightclub lewd conduct rules after inspection backlash](#)



From The Newsrooms

Abortion Policy

- [Republicans block attempt to add rape, incest exemptions to Missouri’s abortion ban](#)
- [In New Jersey Senate race, gender sparks debate about abortion rights](#)
- [‘A woman’s health matters’: Abortion access allowed New Hampshire woman to become a mom](#)
- [Wyoming abortion ban opponents submit new OB-GYN impact study as court evidence](#)

Criminal Justice

- [Stop cowering and start passing gun safety measures, Kansas lawmaker tells colleagues](#)
- [Amid rise in antisemitism, New Jersey assemblyman targets doxxing, swatting](#)

- [Legislative Black Caucus opposes Louisiana Gov. Jeff Landry's juvenile justice leader. Why that matters.](#)
- ['A punch in the gut': Tennessee women accuse Johnson City officials of victim-blaming in serial rapist case](#)

Gov & Politics

- [Auditor: Report on Arkansas governor's lectern purchase should be finished in March](#)
- [After border bill fiasco, Sen. Ted Cruz calls for Republican leader Mitch McConnell's replacement](#)
- [Government transparency advocates prevail in slowing New Hampshire bill with public records fee](#)
- [Massachusetts Gov. Maura Healey's 'Washington solution' to migrant crisis derails](#)



One Last Thing

The only Super Bowl prep that matters: Ranking [all 155](#) of Usher's songs. ("Yeah!" was robbed.)

News From The States

A PROJECT OF STATES NEWSROOM

Did someone forward you this newsletter?

[SUBSCRIBE](#) | [LEARN MORE ABOUT OUR NEWSROOMS](#) | [FOLLOW](#)



©News From The States, all rights reserved.

www.newsfromthestates.com | info@newsfromthestates.com

Manage your donation and subscription preferences [here](#).

Add info@newsfromthestates.com to your [address book](#) to ensure delivery.

Did someone forward you this newsletter? [Click here](#) to get it delivered to your inbox.

States Newsroom – News From The States

1414 Raleigh Rd #127

Chapel Hill, NC 27517

United States

You are receiving this email because you opted in via our website or States Newsroom. If you believe you received this message in error or wish to change your subscription, please (Unsubscribing is not supported in previews).